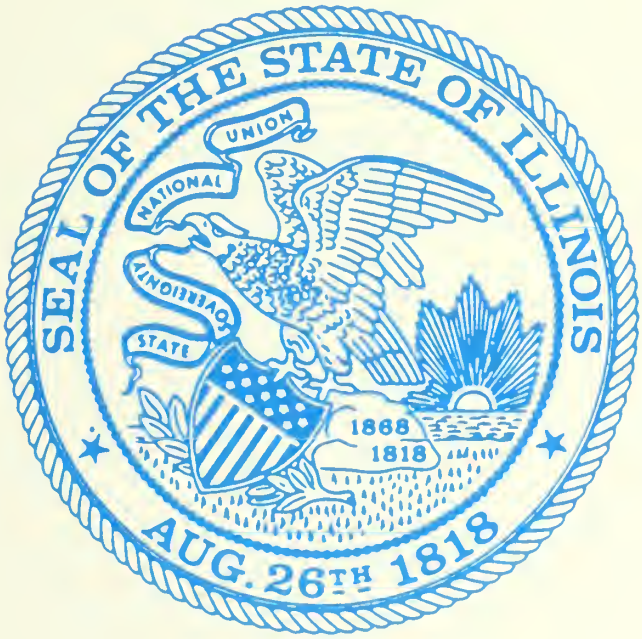
DIGEST OF ADJUDICATION PRECEDENTS

VOLUME II



Illinois Department of Employment Security

Procedure

5.05 - General

Abatement

10.05 - General

Appearance

25.05 - General

Continuance

100.05 - General

Cross-Examination

108.05 - General

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145.05 - General

Evidence

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Fair Hearing and Due Process

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Jurisdiction and Powers of Tribunal

275.05 - General

Issue/Digest Code	PROCEDURE / PR 275.05
Docket/Date	ABR-86-4328 / 8-6-87
Authority	Section 803 of the Act
Title	Jurisdiction and Powers of Tribunal
Subtitle	Board of Review over Matters Pending Before a Referee
Cross Reference	None

The claimant appeared without witnesses and requested a continuance. The Referee denied a continuance and ruled that the claimant was disqualified for benefits.

The claimant appealed to the Board of Review, requesting that he be given the opportunity to produce his witnesses. The Board remanded the case for that purpose.

At his new hearing, the claimant, again, appeared without witnesses and, again, requested a continuance. This time, the Referee granted a continuance.

After the Referee granted the continuance, but before the hearing was held, the employer wrote a letter to the Board, objecting to this third opportunity for the claimant as "a gross abuse of the process" that "would constitute substantial harassment of the employer."

HELD: Section 803 provides that the Board of Review may, on appeal or its own motion, affirm, modify, or set aside a Referee's decision. Section 803 does not permit the Board to rule on matters pending before a Referee. There is one exception. The Director may remove matters from a Referee to the Board of Review. But the Board itself is not empowered to remove matters from a Referee.

The granting of a continuance was a matter pending before a Referee. The Director had not removed this matter from the Referee to the Board. The Board of Review was without jurisdiction to take any action on the employer's request.

Payment of Benefits When Due

350.05 - General

Privilege of Communication

367.05 - General

Rehearing or Review

Issue/Digest Code	PROCEDURE / PR 380.1
Docket/Date	Gregory v. Bernardi, 465 N.E. 2d 1052 (1984)
Authority	Section 803 of the Act
Title	Rehearing or Review
Subtitle	Additional Proof
Cross Reference	PR 380.25, Rehearing or Review, Scope and Extent

The employer's letter of appeal to the Board of Review contained a "Summary of Events" that was not part of the record before the Referee or ever properly submitted as evidence. In its decision, disqualifying the claimant, the Board made reference to two "facts" contained in the Summary of Events.

The claimant contended that the Board's decision should be set aside because it denied him due process: it was based upon evidence he had no opportunity to examine.

HELD: Findings upon which a decision is based must be drawn from the record. The record may include evidence not previously submitted, but only if all parties are given notice and an opportunity to rebut that evidence.

In this case, the Board considered evidence improperly. [However, this was deemed "harmless error," because the decision was based upon other facts. The decision was not set aside.]

Issue/Digest Code	PROCEDURE / PR 380.25
Docket/Date	Richard Jackson v. IDES, No. 4-87-0559 (1988)
Authority	Section 1100 of the Act
Title	Rehearing or Review
Subtitle	Scope and Extent
Cross Reference	None

A Claims Adjudicator, Referee, and the Board of Review all held that the claimant was disqualified for benefits for misconduct connected with his work under Section 602A. Upon appeal to the Circuit Court, the claimant submitted an "Affidavit of Witness," a document disputing, and discrediting as hearsay, evidence submitted to the Agency during the course of the adjudication process. The Circuit Court admitted this affidavit for the sole purpose of showing that the material evidence relied upon by the Agency was hearsay. Then the Circuit Court reversed the decision of the Board of Review, finding that it was based upon hearsay evidence and against the manifest weight of the evidence.

HELD: Section 1100 of the Unemployment Insurance Act provides, in relevant part, that review by the courts of decisions of the Board of Review shall be in accordance with the provisions of Administrative Review Law. The scope of review of an administrative agency's decision is set forth in the Code of

Civil Procedure. The Code of Civil Procedure limits review of new or additional evidence as follows:

> No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court.

Further, courts have held that, upon administrative review, the reviewing court is limited to considering only the evidence submitted in the administrative hearing and it may not hear further evidence or conduct a hearing de novo. Further, parties are not permitted to supplement the administrative record on appeal to provide new or additional evidence.

In this case, although the Circuit Court qualified its decision by stating that the affidavit was admitted for the sole purpose of showing that the material evidence relied upon by the Agency was hearsay, the admission of the document was still improper, and it was on the basis of this document, and not the record properly before the Circuit Court on review, that it reversed the Agency decision as being against the manifest weight of the evidence. The decision of the Board of Review was not against the manifest weight of the evidence. The decision of the Circuit Court was reversed.

Issue/Digest Code	PROCEDURE / PR 380.25
Docket/Date	Gregory v. Bernardi, 465 N.E. 2d 1052 (1984)
Authority	Section 803 of the Act
Title	Rehearing or Review
Subtitle	Scope and Extent
Cross Reference	PR 380.1, Rehearing or Review, Additional Proof

The Referee made findings of fact based upon the record and held that the claimant was discharged not for misconduct.

Upon appeal, the Board of Review made an independent assessment of the evidence in the record, rather than merely determining the supportability of the Referee's findings. On the basis of its findings of fact, the Board of Review determined that the claimant was discharged for misconduct.

The claimant contended that the Referee was the trier of fact and that the Board, as a reviewing body, should not have assessed evidence independently or disturbed the trier's findings unless they were against the manifest weight of the evidence (this being the standard that would apply to a reviewing court).

HELD: Where an administrative agency and not a hearing examiner is responsible for a decision, the agency must make its own

decision based upon the evidence in the record.

Section 803 of the Act designates Board of Review decisions as Department decisions subject to direct judicial review. Referee decisions are not subject to direct judicial review. Further, Section 803 contemplates that the Board will make findings. It empowers the Board to take additional evidence, or conduct its own hearings, thereby expanding the Referee's record. The Board. then, is the ultimate finder of fact. The Referee is not the finder of fact, but merely one such finder, along with the claims adjudicator.

Consequently, the Board of Review is not held to the standard of a reviewing court. While the Board is required to consider the findings of the Referee as part of the record, it is free to consider the whole record in order to reach its own independent findings.

Issue/Digest Code	PROCEDURE / PR 380.25
Docket/Date	Harry Clark v. IDOL, 219 N.E. 2d 143 (1966)
Authority	Section 1100 of the Act
Title	Rehearing or Review
Subtitle	Scope and Extent
Cross Reference	None

A Claims Adjudicator issued a determination that the claimant was ineligible for benefits. The determination contained a notice that, if the claimant did not appeal in a timely fashion, the determination would become final.

The claimant filed an untimely appeal. He explained to the Referee that he did not file on time because his emotions were in turmoil: he had been evicted from his apartment for unpaid rent; his wife had left him, taking their children. The Referee concluded that the dates of filing were not in error, that the determination had become final, and that he was without jurisdiction to hear the case on the merits. He dismissed the appeal.

The claimant appealed to the Board of Review, which affirmed the Referee's decision dismissing the appeal.

The claimant sought judicial review. The Circuit Court heard

additional evidence relating to the reasons for the delayed appeal. The court then remanded the case to the Board of Review for a hearing on the merits.

The Board of Review conducted a hearing, after which the claimant was denied benefits on the merits.

The claimant appealed to Circuit Court, which reversed the decision of the Board of Review.

HELD: The scope of judicial review is confined to questions of fact and law presented by the record. No new or additional evidence in support of or in opposition to any finding, order, determination, or decision of an administrative agency may be heard by a reviewing court.

In this case, the Circuit court should not have heard evidence relating to the circumstances of the claimant's late filing. This was so even if the claimant's additional evidence merely reiterated what he told the Referee. The court did not make the distinction between remanding for the purpose of taking additional testimony and remanding on the basis of having taken additional testimony, the latter being improper and grounds for reversal. The Circuit Court's decision was reversed.

Prodedure
Representation

Representation

400.05 - General

PR 400

Right of Review

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
PROCEDURE/PR 405.15

Docket/Date
Hernandez v. DOL, 83-IL 2d. 512 (1981)

Case Number/Authority
1./S-800

Title Right of Review

Subtitle Finality of Determination

Cross-Reference None

The claims adjudicator found the claimant ineligible for benefits due to work-related misconduct consisting of unauthorized absences and sent a determination written entirely in English to this effect to the claimant. The determination also purported to inform him of his right to appeal within nine days of the date it was mailed.

The claimant and members of his household speak only Spanish, so he took this determination to a friend for translation. The friend only informed him that the notice said he was discharged for unauthorized absences, something he already knew. The claimant personally visited the employment office after the notice was mailed, and after the appeal period expired, to investigate the delay in receiving benefits and, at that time, first learned of the ineligibility finding from an agency interpreter. The referee ruled on appeal that he lacked jurisdiction to review the adjudicator's determination because of the late appeal, and the Board of Review affirmed. The Circuit Court of Cook County dismissed the claimant's complaint, but the Appellate Court reversed and remanded for a determination on the merits. The Board of Review and the former employer appealed the remand to the Supreme Court.

HELD: The Supreme Court reversed the Appellate Court. The limitation in which to file an appeal contained in Section 800 is analogous to a statute of

limitation provision for those parties "given notice thereof." It is a mandatory rather than a directory provision because the consequence of noncompliance, that the claims adjudicator's determination be considered final, is clearly provided in the Act.

It is undisputed here that claimant was "given notice" by the agency, and he apparently received it in sufficient time to permit compliance with its terms. The argument advanced here, however, is that the claimant did not have "actual notice" of the contents of the notice because he spoke only Spanish, and his friend incorrectly translated the contents of the notice.

Notices written in English are sufficient to constitute effective notice. A decision otherwise might lead to a claim that a notice in English is insufficient as to illiterates and all non-English speaking persons.

The Act does not provide for late filings for excusable neglect or for good cause. The Supreme Court will not amend the statute by engrafting onto it a good-cause or excusable-neglect provision, which would allow the appeal period to be extended on grounds that a benefit applicant cannot understand the English language.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
PROCEDURE/PR 405.2

Docket/Date
84-BRD-100-EB/3-29-84

Case Number/Authority
1./S-702

Title Right Of Review

Subtitle Persons Entitled

Cross-Reference None

The employer filed a protest which alleged, in part:

> "The claimant has been unemployed for an extended period of time in an area where job openings exist for persons with clerical experience. We feel her extended period of unemployment results from the fact that she is not making the systematic and sustained effort to find work required under Section 409K."

HELD: The protest of the employer did provide reasons other than general conclusions of law for the allegation that the claimant was unavailable for work. The employer was entitled to receive notice of the claims adjudicator's determination.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
PROCEDURE/PR 405.2

Docket/Date
84-BRD-354-FSC/3-29-84

Case Number/Authority
2./S-702

Title Right Of Review

Subtitle Persons Entitled

Cross-Reference None

The employer filed a protest which alleged, in part:

> "The claimant has been continuously and uninterruptedly unemployed for a period of six months, restricts himself to the second and third shifts only, and has no prospects of new employment. Based on the above and further considering his past training, skills, and experiences, we feel that he has not exerted sufficient effort to return to the full-time active labor force."

HELD: The protest of the employer did provide a reason other than a general conclusion of law for the allegation that the claimant was unavailable for work. The employer was entitled to receive notice of the claims adjudicator's determination.

Issue/Digest Code	PROCEDURE / PR 405.2
Docket/Date	ABR-88-5245 / 11-29-88
Authority	Section 702 of the Act; 56 Ill. Adm. Code 2720.130
Title	Right of Review
Subtitle	Persons Entitled
Cross Reference	None

On March 25, notice of the claimant's benefit claim was mailed to the employer. The same day, the claims adjudicator mailed to the employer a "General Employment Information" form, pertaining to the claimant's reported discharge from his job and containing questions such as:

> What was the act which caused the discharge?
>
> If he violated a company rule, how was he informed of the rule?
>
> Had he been previously warned about infraction of the rule? If so, explain.

By April 4, the last day for filing a timely protest, the employer had filed its "General Information Form," complete with factual answers, but no other documents.

Subsequently, the claims adjudicator issued a determination allowing benefits. The determination was not sent to the employer. The employer's appeal was dismissed. The

reason for the lack of notice and dismissal of the appeal was that the employer was considered a non-party. It was held that, in order to have become a party, entitled to notice and appeal rights, it would have had to file a protest and not merely responses to questions on the Department's informational form.

HELD: Section 702 of the Unemployment Insurance Act provides that the claims adjudicator shall send notice of a determination to an employing unit that has filed a timely and sufficient allegation of ineligibility. Benefit Rule 2720.130 provides that an allegation of ineligibility is a "protest" and that a protest is a "notice of possible ineligibility" or a "letter in lieu thereof." It is timely when it is filed within 10 days of the date of notice to the employing unit, and, it is sufficient when it gives a reason for ineligibility that is related to the issue raised and is not a general conclusion of law.

In this case, the employer's completion of an informational form was a letter in lieu of a formal notice of possible ineligibility. It was filed within 10 days of notice to the employing unit. It set forth facts, not conclusions of law, in support of its allegation. The employer was a party.

The case was remanded for a hearing on the merits.

Taking and Perfecting Proceedings for Review

Issue/Digest Code	PROCEDURE / PR 430.2
Docket/Date	ABR-87-7652 / 2-16-88
Authority	Section 702 of the Act; 56 Ill. Adm. Code 2720.130
Title	Taking and Perfecting Proceedings for Review
Subtitle	Timeliness (of Employer's Protest)
Cross Reference	None

The claimant filed her benefit claim on May 22. On May 23, notice of the claim was mailed to her employer.

On June 1, the employer filed a protest alleging that the claimant quit her job for reasons not attributable to the employer and contending that she should be disqualified under Section 601A (Voluntary Leaving).

On July 29, the employer submitted a protest alleging that the claimant was physically unfit to work and contending that she should be ruled ineligible under Section 500C (Ability and Availability for Work).

The claimant was allowed benefits under Section 500C, without disqualification under Section 601A, for the period May 31 through June 13.

The employer appealed the issue of Ability and Availability for

Work under Section 500C.

HELD: Section 702 and Benefit Rule 2720.130 provide that an employer is a party, entitled to notice of determinations and rights of appeal, if it files a timely protest.

Generally, a protest is timely if it is filed within 10 days of mailing of the notice of claim. The employer's protest of Voluntary Leaving under Section 601A was timely.

However, the employer's protest of Ability and Availability for Work was untimely, both under the 10 day provision and under Benefit Rule 2720.130(b). Rule 2720.130(b) provides that:

> Any employing unit may, at any time, file a protest alleging that acts or circumstances which may have occurred during the claim series should result in the termination or suspension of benefits. A protest regarding possible ineligibility during a claim series is timely beginning with the week in which it is received.

The employer's protest was filed July 29. It would have been timely beginning with that week, but not for the period May 31 through June 13.

The employer had no right of appeal. Its purported appeal was dismissed.

Refusal of Work

5.05 - General

Issue/Digest Code	REFUSAL OF WORK / RW 5.05
Docket/Date	ABR-88-338 / 3-25-88
Authority	Sections 601 and 603 of the Act
Title	Refusal of Work
Subtitle	vs. Voluntary Leaving
Cross Reference	VL 5.05, Voluntary Leaving; RW 330.05, Offer of Work

The claimant obtained work as a machinist through a temporary employment service (his employer) which would refer him to its clients. The employment service's policy was that workers, upon completion of assignments, should contact the service and apply for other assignments. Upon completion of an assignment which had run from February 13 through March 25, the claimant chose not to contact the employer's service.

The threshold issue was whether the claimant's actions were to be considered under Section 601A, Voluntary Leaving, or Section 603, Refusal of Work.

HELD: Whether a worker has quit a job or refused a job is determined by whether the worker was employed or unemployed at the time of a purported offer of new work. In this case, the claimant completed an assignment and was unemployed at the time new work was purportedly made available. Therefore, the issue was Refusal of Work, cognizable under Section 603 of the Act.

Attendance at School or Training Course

40.05 - General

Citizenship or Residence Requirements

70.05 - General

Conscientious Objection

90.05 - General

Issue/Digest Code	REFUSAL OF WORK / RW 90.05
Docket/Date	Frazee v. IDES, 109 S.Ct. 1514 (1989)
Authority	Section 603 of the Act
Title	Conscientious Objection
Subtitle	Religion and Morals
Cross Reference	RW 515.5, Working Conditions, Morals

The claimant refused a job because it would have required him to work on Sunday. He stated that he refused because, as a Christian, although not a member of any particular sect, he felt it was wrong to work on Sunday.

He was denied unemployment benefits. He appealed, citing the First Amendment's Free Exercise Clause.

The appellate court held that, for a Free Exercise Clause claim to succeed, a claimant must sincerely believe in a tenet or dogma of, and belong to, an established religious sect. The court pointed out that assorted Christian denominations did not abstain from Sunday work and that the claimant did not belong to a particular sect that did abstain; therefore, he had been correctly denied benefits.

The claimant then appealed to the United States Supreme Court.

HELD: The denial of unemployment benefits, because an individual

chooses fidelity to sincerely held religious beliefs over employment, violates the First Amendments' Free Exercise Clause.

The protection afforded by the Free Exercise Clause is not limited to responses to formal commands of particular religious organizations. Protection extends to an individual, even if he does not belong to such an organization, so long as his belief is both religious and sincere.

In this case, the claimant's refusal to work on Sunday was based upon his sincerely held religious belief.

He was entitled to First Amendment protection. The denial of unemployment benefits violated the Free Exercise Clause.

Customary Self-Employment Return To

116.05 - General

Discrimination

139.05 - General

Distance to Work

150.05 - General

150.15 - Removal from Locality

150.2 - Transportation and Travel

Issue/Digest Code	REFUSAL OF WORK / RW 150.2
Docket/Date	ABR-88-3042 / 6-13-88
Authority	Section 603 of the Act
Title	Distance to Work
Subtitle	Transportation and Travel
Cross Reference	RW 210.05, Good Cause

The claimant worked second shift, 3 p.m. to 11 p.m., at a considerable distance from her home. She did not own a car, and, after 9 p.m., there was no public transportation that would take her home. So she rode to and from work with her sister, who owned a car and worked at the same place at the same hours.

The claimant was laid off. Her sister decided to move to Texas. Then the claimant was recalled to work, on the same terms. The claimant refused the offer to return to work, because she would now have no way to get home.

HELD: Section 603 provides that consideration must be given to the distance to work. This would include the availability of transportation.

In this case, the claimant had no transportation home from work. In this regard, the work was no longer suitable for her and she had good cause to refuse it.

Domestic Circumstances

Employer Requirements

165.05 - General

Employment Office or Other Agency Referral

Equipment

180.05 - General

Evidence

190.05 - General

Experience and Training

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 195.2

Docket/Date
83-BRD-15260/12-16-83

Case Number/Authority
1./S-603

Title Experience Or Training

Subtitle Use Of Highest Skill

Cross-Reference None

The claimant worked for the employer, a temporary employment agency, as a data processor for two years. She was laid off by one of the employer's clients due to lack of work. Her final wage was $5.50 per hour. Three days after the layoff, the employer offered the claimant a temporary assignment as a greeter of customers at a savings and loan institution. The assignment was for one month at a wage of $5.25 per hour. The claimant refused the employer's offer of work because she wanted to find a job in data processing.

HELD: The claimant refused an offer of work for good cause. The offered job was that of a receptionist and not related to the claimant's usual occupation. The offer was unsuitable work for the claimant. Therefore, the claimant is not subject to any disqualification.

Good Cause

210.05 - General

Issue/Digest Code	REFUSAL OF WORK / RW 210.05
Docket/Date	ABR-88-3042 / 6-13-88
Authority	Section 603 of the Act
Title	Good Cause
Subtitle	Good Cause Applies to Conditions at Time of Refusal
Cross Reference	RW 150.2, Distance to Work

The claimant worked second shift, 3 p.m. to 11 p.m., at a considerable distance from her home. She did not own a car, and, after 9 p.m., there was no public transportation that would take her home. So she rode to and from work with her sister, who owned a car and worked at the same place at the same hours.

The claimant was laid off. Her sister decided to move to Texas. Then the claimant was recalled to work, on the same terms. The claimant refused the offer to return to work, because she would now have no way to get home.

HELD: In determining whether work is suitable or whether good cause exists for refusing work, consideration must be given to conditions as they exist at the time of refusal.

In this case, the claimant's work had been suitable; but, at the time of refusal, she did not have any transportation home from work. Therefore, she had good cause for refusing the offer.

Government Requirements

Health Or Physical Condition

Interview and Acceptance

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 265.3

Docket/Date
84-BRD-883/1-23-84

Case Number/Authority
1./S-603

Title
Interview And Acceptance

Subtitle
Failure To Report For Interview Or Work

Cross-Reference
None

The claimant received from the local office a notice designated as an "offer of work." The notice directed her to report to her former employer on a certain day but did not mention a specific reporting time. The claimant made other contacts during the early part of the day and reported to the former employer at 3:00 p.m. After a lengthy interview, the employer offered the claimant her former position at a lower wage. The claimant insisted upon her prior wage. The employer further told the claimant that he had expected her to report at 8:30 a.m.

At the subsequent hearing, the employer admitted that he had filled the position by hiring another person at 2:00 p.m. on the day of the interview with the claimant.

HELD: The employer did not make an actual offer of work. Although the notice was labeled "offer of employment," no specific reporting time was mentioned. The claimant assumed that she was merely expected to report for an interview, and she did contact the employer for this purpose. Another candidate was actually hired for the job prior to the claimant's interview with the employer. The claimant is not disqualified for benefits.

Length of Unemployment

295.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 295.05

Docket/Date
84-BRD-1494/1-31-84

Case Number/Authority
1./S-603

Title: Length of Unemployment

Subtitle: General

Cross-Reference: RW 450.154, Nights under Time

After approximately two months of unemployment, the claimant was offered a job in her prior work unit and at the same wages. The claimant would have been required to work evenings until 9:00 p.m. on a rotating basis and Saturdays. The claimant refused the offer with the statement that she had never worked evenings during the five years she was employed with her employer. The claimant had no personal obligations which would require her presence at home in the evenings.

HELD: Refusal of work because the hours of proffered work would cause inconvenience or are not the hours preferred is without good cause. Although an unemployed individual may, during the early period of her unemployment, limit herself to conditions of work similar to those which she had previously enjoyed, the claimant had remained unemployed for approximately two months, and no good cause existed for refusing the work. The claimant is disqualified for benefits.

Refusal of Work
New Work

New Work

315.05 - General

RW 315

Offer of Work

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 330.05

Docket/Date
84-BRD-1012/1-24-84

Case Number/Authority
1./S-603

Title
Offer Of Work

Subtitle
General

Cross-Reference
None

The claimant's job as a physical plant specialist was eliminated and ended in February. Before termination, he had been asked if he would be interested in a custodial position that would begin in April. Wages were not discussed. He told the employer that he would not be interested.

HELD: The language of Section 603 is clear and unambiguous, and its provisions may be applied to a claimant only if he was actually offered available suitable employment which he refused. In this instance, the employer's inquiry did not amount to a definite offer of work. Furthermore, the period under review is in the month of February, and the purported job offer was to begin in April. The claimant is not disqualified for benefits.

Issue/Digest Code	REFUSAL OF WORK / RW 330.05
Docket/Date	ABR-88-338 / 3-25-88
Authority	Section 603 of the Act
Title	Offer of Work
Subtitle	An Offer Must Be Definite
Cross Reference	VL 5.05, Voluntary Leaving; RW 5.05, Refusal of Work

The claimant obtained work as a machinist through a temporary employment service (his employer) which would refer him to its clients. The employment service's policy was that workers, upon completion of assignments, should contact the service to see if other assignments were available and apply. Upon completion of an assignment which had run from February 13 through March 25, the claimant chose not to contact the employer's service.

The issue was whether the claimant refused an offer of available suitable work.

HELD: An offer of work must be definite. A direction to apply for work is not a definite offer of work. An employer's policy requiring workers to report is not an offer of work. In this case, there was no offer of work. The claimant could not be disqualified under Section 603.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 330.15

Docket/Date
83-BRD-1007-EB/11-10-83

Case Number/Authority
1./S-603

Title
Offer Of Work

Subtitle
Means Of Communication

Cross-Reference
None

The employer stated that, subsequent to the layoff, a letter of recall was sent to the claimant's last known address, and no response was received. The claimant had relocated to his mother's home out of state, and he notified his employer of the address change. He received two vacation paychecks, but he did not receive the offer of work. The claimant stated that he would have accepted the offer had he received it.

HELD: The claimant did not receive the employer's offer of work because it was not mailed to his current address. Therefore, no offer of work was ever communicated to the claimant, and he could neither accept it nor reject it. The claimant did not refuse an offer of work and was not subject to any disqualification.

Issue/Digest Code	REFUSAL OF WORK / RW 330.25
Docket/Date	Glen Behling v. IDOL, 525 N.E. 2d 1021 (1988)
Authority	Section 603 of the Act
Title	Offer of Work
Subtitle	Terms
Cross Reference	None

The claimant worked as a security guard for 3 years until his layoff. The same employer then mentioned that there were other employment positions available, at another site, part-time and on holidays. Specific terms were not mentioned. The claimant did not accept any other job and, subsequently, he was held ineligible, under Section 603, for refusing work.

At no time during the appeal hearing did the employer testify as to the type of work or job duties that the claimant would be required to perform, or what his rate of pay would be. The claimant testified that he was unsuccessful in ascertaining the specifics of the work offered.

HELD: If an offer of work does not identify a particular job and its essential terms, then it cannot be determined whether the work is suitable. If it cannot be determined whether work is suitable, there can be no disqualification under Section 603.

In this case, the information and details of work were so sketchy (almost nonexistent) that the claimant could not have been expected to accept the work as suitable. The decision holding him ineligible was set aside.

Offered Work Previously Refused

335.05 - General

Period of Disqualification

Refusal of Work
Personal Affairs

Personal Affairs

360.05 - General

RW 360

Refusal of Work
Personal Appearance

Personal Appearance

363.05 - General

RW 363

Refusal of Work
Prosepect of Other Work

Prospect of Other Work

365.05 - General

Time

450.05 - General

450.1 - Days of Week

450.15 - Hours:

450.05	General
450.152	Irregular
450.153	Long or Short
450.154	Night
450.155	Prevailing Standard, Comparison with
450.156	Statutory or Regular Standard, Comparison With
450.2	Irregular Employment
450.35	Overtime
450.4	Part Time or Full Time
450.45	Seasonal
450.5	Shift
450.55	Temporary

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 450.05

Docket/Date
83-BRD-13915/11-28-83

Case Number/Authority
1./S-603

Title Time

Subtitle General

Cross-Reference None

The claimant was offered work during the opera season as a musician. He had been under contract for and had performed such work during the prior three seasons for the same employer. He refused the offer because of the seasonal nature of the work.

HELD: The claimant had a history of seasonal work with the employer, and the fact that the work was seasonal did not render the work unsuitable. He refused an offer of suitable work without good cause, and he is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 450.154

Docket/Date
84-BRD-1494/1-31-84

Case Number/Authority
1./S-603

Title: Time

Subtitle: Nights

Cross-Reference: General under Length Of Unemployment

After approximately two months of unemployment, the claimant was offered a job in her prior work unit and at the same wages. The claimant would have been required to work evenings until 9:00 p.m. on a rotating basis and Saturdays. The claimant refused the offer with the statement that she had never worked evenings during the five years she was employed with her employer. The claimant had no personal obligations which would require her presence at home in the evenings.

HELD: Refusal of work because the hours of proffered work would cause inconvenience or are not the hours preferred is without good cause. Although an unemployed individual may, during the early period of her unemployment, limit herself to conditions of work similar to those which she had previously enjoyed, the claimant had remained unemployed for approximately two months, and no good cause existed for refusing the work. The claimant is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
REFUSAL OF WORK/RW 450.55

Docket/Date
83-BRD-814-FSC/12-30-83

Case Number/Authority
1./S-603

Title Time

Subtitle Temporary

Cross-Reference None

The claimant worked for the employer as a temporary replacement for a worker who was on vacation. At the completion of the temporary assignment, the employer offered the claimant a four-week assignment at the same wages and hours. The claimant refused to accept the temporary job because she said that it would interfere with her search for permanent work and that, during part of the work period, she intended to leave town to visit with her parents.

HELD: The claimant was offered work on the same terms and conditions as the job recently completed, and it was, therefore, suitable work. She could have continued to seek a permanent job while working. Her personal desire to visit her parents was not of sufficient importance to justify the refusal. She has not shown good cause for refusing work under either condition, and she is ineligible to receive benefits.

Union Relations

Refusal of Work
Vacant Due to Labor Dispute

Vacant Due to Labor Dispute

480.05 - General

Wages

Issue/Digest Code	REFUSAL OF WORK / RW 500.5
Docket/Date	ABR-87-925 / 1-29-88
Authority	Section 603 of the Act
Title	Wages
Subtitle	Low
Cross Reference	None

The claimant worked until February, 1986, as a data processor, at a final wage of $7 per hour. Following his separation from that job, he worked for a temporary agency until the end of March, for $5.25 per hour. But he rejected similar work for that wage in April. Because he rejected work he was disqualified under Section 603.

The claimant testified that he had not been unemployed very long and he wished to see if he might obtain work similar in remuneration to that he earned prior to accepting the temporary March assignment. He also presented evidence to show that the median wage paid data processors was above the wage offered to him by the temporary agency. In May, he obtained a job as a computer operator, at a wage of $6 per hour.

HELD: During the early period of unemployment, an individual may limit himself to conditions of work similar to those he enjoyed in the recent past.

Work, Nature of

Working Conditions

Issue/Digest Code	REFUSAL OF WORK / RW 515.5
Docket/Date	Frazee v. IDES, 109 S.Ct. 1514 (1989)
Authority	Section 603 of the Act
Title	Working Conditions
Subtitle	Morals
Cross Reference	RW 90.05, Conscientious Objection, Religion

The claimant refused a job because it would have required him to work on Sunday. He stated that he refused because, as a Christian, although not a member of any particular sect, he felt it was wrong to work on Sunday.

He was denied unemployment benefits. He appealed, citing the First Amendment's Free Exercise Clause.

The appellate court held that, for a Free Exercise Clause claim to succeed, a claimant must sincerely believe in a tenet or dogma of, and belong to, an established religious sect. The court pointed out that assorted Christian denominations did not abstain from Sunday work and that the claimant did not belong to a a particular sect that did abstain; therefore, he had been correctly denied benefits.

The claimant then appealed to the United States Supreme Court.

HELD: The denial of unemployment benefits, because an individual

chooses fidelity to sincerely held religious beliefs over employment, violates the First Amendment's Free Exercise Clause.

The protection afforded by the Free Exercise Clause is not limited to responses to formal commands of particular religious organizations. Protection extends to an individual, even if he does not belong to such an organization, so long as his belief is both religious and sincere.

In this case, the claimant's refusal to work on Sunday was based upon his sincerely held religious belief.

He was entitled to First Amendment protection. The denial of unemployment benefits violated the Free Exercise Clause.

Total and Partial Unemployment

5.05 - General

Amount of Compensation

20.05 - General

20.1 - More or Less Than Weekly Benefit Amount

Apprenticeship or Preparatory Service

30.05 - General

Attendance at School or Training Course

40.05 - General

Compensation Not Payable or No Work Done

Contract Obligation

105.05 - General

Cooperate or Union Officer

110.05 - General

Evidence

Military Service

305.05 - General

Odd-Job or Subsidiary Work

325.05 - General

Public Service

370.05 - General

Total and Partial Unemployment
Relief Work or Public Assistance

Relief Work or Public Assistance

395.05 - General

Self-Employment or Other Work

415.05 - General

415.1 - Agriculture

415.15 - Commercial Enterprise

415.2 - Family Enterprise

415.25 - Professional

415.3 - Salesman

Time of Services

455.15 - General

455.1 - Full Time or Part Time

455.15 - Intermittent Work

Type of Compensation

460.05 - General

460.1 - Board and Lodging

460.15 - Bonus

460.2 - Commission

460.25 - Credit

460.3 - Damages or Other Award

460.35 - Dismissal or Separation Pay

460.4 - Drawing Account

460.45 - Expenses

460.5 - Gratuity

460.55 - Pension or Retirement Pay

460.6 - Remuneration For Past or Future Services

460.62 - Supplemental Unemployment Benefits

460.65 - Union Payment or Benefit

460.7 - Use of Property

460.75 - Vacation or Holiday Pay

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
TOTAL & PARTIAL UNEMPLOY./TPU 460.55

Docket/Date
83-BRD-13610/11-22-83

Case Number/Authority
1./S-611A1.

Title
Type Of Compensation

Subtitle
Pension Or Retirement Pay

Cross-Reference
None

The claimant was laid off after thirty-one years of employment, and she subsequently elected to take a pension funded solely by employer contributions.

HELD: The entire amount of retirement pay received by the claimant constitutes disqualifying income deductible from benefits to which the claimant might otherwise be entitled, because the pension was entirely employer funded.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
TOTAL & PARTIAL UNEMPL./TPU 460.6

Docket/Date
84-BRD-1/1-5-84

Case Number/Authority
1./S-500C and S-239

Title
Type Of Compensation

Subtitle
Renumeration For Past Or Future Services

Cross-Reference
None

When the claimant's job was eliminated, he resigned pursuant to an agreement whereby for a period of six months he was to receive weekly payments in the same amount as his prior wages. The claimant was under no obligation to render further services to the employer following the submission of his resignation. Two days after his resignation, the claimant filed an initial claim for benefits alleging that he was an unemployed individual.

HELD: Section 500C of the Act requires, as a condition of eligibility, that the claimant be an "unemployed individual" during the weeks for which he filed his claim for benefits. Section 239 in conjunction with Section 500C governs eligibility and provides that an individual shall be deemed to be unemployed in any week with repect to which no wages are payable to him and during which he performed no services, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount. In determining whether payments received by a worker after his separation constitute wages, it is necessary to determine whether such payments can be properly allocated to services rendered the employer after the claimant's separation from work.

In this case, the claimant did not perform any services for his employer after his separation from work, nor was he obligated to do so. The payments received by the claimant were based totally on his past performance of services for the employer.

The payments received by the claimant after his separation from work did not constitute wages within the meaning of the Act such as to preclude the claimant from being determined an unemployed individual. At such, the payments are not deductible from benefits the claimant may be otherwise eligible to receive.

Voluntary Leaving

5.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 5.05

Docket/Date
83-BRD-11723/10-20-83

Case Number/Authority
1./S-601A

Title Voluntary Leaving

Subtitle General

Cross-Reference VL 135.1, Absence From Work under Discharge Or Leaving

On February 20, 1983, the claimant requested and was granted a month's leave of absence to visit her sick father in Mexico. She did not report to work on the scheduled return date, March 20, 1983. She wrote the employer on March 28, 1983, from Mexico, to request her job when she returned. She did not advise her employer prior to her leave's expiration, and she made no attempt to extend the leave. She had been removed from the payroll.

HELD: The claimant's failure to return to work on schedule at the end of her leave of absence constituted a voluntary leaving. If she had a compelling reason for failing to return from her leave as scheduled, she failed to provide timely notification of it. Her voluntary leaving was without good cause attributable to her employer, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 5.05

Docket/Date
84-BRD-2756/2-28-84

Case Number/Authority
2./S-601B1. and S-602A

Title Voluntary Leaving

Subtitle General

Cross-Reference MC 5.05, Distinguishing The Issue under Misconduct

The claimant was given an indefinite leave of absence to care for her mother who was seriously ill. Four months later, the claimant's sister became available to care for the mother, and she notified the employer that she could return to work. The company told her work was slow and asked her to check back with them in a month. She was subsequently placed on layoff without returning to work.

HELD: The claimant's separation was neither a voluntary leaving nor a discharge but was due to lack of work. Therefore, the claimant cannot be subject to a disqualification for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 5.05

Docket/Date
84-BRD-3089/3-2-84

Case Number/Authority
3./S-601A

Title
Voluntary Leaving

Subtitle
General

Cross-Reference
VL 450.4, Part-time Or Full-time under Time

The claimant was on a disability leave of absence for a period of fourteen months. When she applied for work with her last employer, she was offered a job but was told that the hours of work for all employees were being reduced. The claimant refused the job because she did not like the part-time work, and she then retired on social security.

HELD: Part-time work is not unsuitable per se, and a leaving because the work is less than full-time hours is generally without good cause attributable to the employing unit if the hours of work or reporting requirements do not prevent the claimant from seeking full-time work. The claimant could have looked for work, in this case, while working part-time. It must be concluded that she voluntarily left her job without good cause, and she is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 5.05
Docket/Date	ABR-88-338 / 3-25-88
Authority	Sections 601 and 603 of the Act
Title	Voluntary Leaving
Subtitle	vs. Refusal of Work
Cross Reference	RW 5.05, Refusal of Work; RW 330.05, Offer of Work

The claimant obtained work as a machinist through a temporary employment service (his employer) which would refer him to its clients. The employment service's policy was that workers, upon completion of assignments, should contact the service and apply for other assignments. Upon completion of an assignment which had run from February 13 through March 25, the claimant chose not to contact the employer's service.

The threshold issue was whether the claimant's actions were to be considered under Section 601A, Voluntary Leaving, or Section 603, Refusal of Work.

HELD: Whether a worker has quit a job or refused a job is determined by whether the worker was employed or unemployed at the time of a purported offer of new work. In this case, the claimant completed an assignment and was unemployed at the time new work was purportedly made available. Therefore, the issue was Refusal of Work, cognizable under Section 603 of the Act.

Issue/Digest Code	VOLUNTARY LEAVING / VL 5.05
Docket/Date	ABR-87-7823 / 4-26-88
Authority	Section 601A of the Act
Title	Voluntary Leaving
Subtitle	vs. Layoff
Cross Reference	None

The claimant was granted a leave of absence so that he could look after the needs of his daughter, a newborn who was seriously ill. Seven weeks later, the child died. Shortly thereafter, the claimant returned to his job, but the employer had no work for him. The Referee held that the claimant left work voluntarily for personal reasons not attributable to his employer.

HELD: An individual who is granted a leave of absence leaves work voluntarily if he fails to return to work at the expiration of that leave. But if, instead, at the expiration of a leave, a worker is advised by the employer that work is not available, the separation is a layoff.

In this case, the claimant was granted a leave of absence of indefinite duration and returned to work at the expiration of that indefinite leave of absence. Upon his return, he was told that work was not available. Therefore, this was a layoff.

Attendance at School or Training Course

40.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 138.05

Docket/Date
83-BRD-10166/8-31-83

Case Number/Authority
1./S-601A

Title
Disciplinary Action

Subtitle
General

Cross-Reference
None

When the claimant was placed on a five day suspension for poor attendence, she walked off the job before the end of her shift. The claimant had received three prior warnings and two suspensions because of absenteeism.

HELD: The right of an employer to reprimand his employees is recognized, and a reasonable reprimand is not good cause for voluntary leaving. If the imposition of a penalty is warranted and not severe in relation to the offense, the worker who leaves because of such penalty voluntarily leaves work without good cause. The receipt of previous warnings regarding the same offense is a factor in deciding whether the penalty is unduly severe. In this instance, the claimant's prior warnings and suspensions for the same offense justified the last suspension which was neither too severe nor unwarranted. The claimant's reason for leaving, although attributable to the employer, was not for good cause, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 138.05

Docket/Date
83-BRD-11419/10-7-83

Case Number/Authority
2./S-601A

Title: Disciplinary Action

Subtitle: General

Cross-Reference: None

The claimant worked as a computer operator. Her principal duty was the scheduling of the maids. She had received written warnings for improper scheduling, the last one on March 2, 1983, and she was told on that date that the next infraction would result in further disciplinary action up to and including a 3-day suspension. She quit on March 4, 1983, without notice, because of the last written warning.

HELD: The right of an employer to reprimand his employees is recognized, and a reasonable reprimand is not a good cause for voluntary leaving. If the imposition of a penalty is warranted and not severe in relation to the offense, the worker who leaves because of such penalty voluntarily leaves without good cause. The fact that the claimant had received prior warnings regarding the offense is a factor in deciding whether the penalty is too severe.

In this instance, the claimant had received prior warnings for the same offense; so the threat of more severe disciplinary action in the future is not unreasonable. The claimant's voluntary leaving, while attributable to the employer, was not for good cause, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 138.05

Docket/Date
83-BRD-12269/10-31-83

Case Number/Authority
3./S-601A and S-602A

Title Disciplinary Action

Subtitle General

Cross-Reference None

The claimant was suspended for two days for an unsatisfactory attendance record. He previously had received a written warning regarding his attendance. When he reported late to work, he was suspended. At the expiration of the suspension, the claimant did not return to his job because he believed the suspension was unjustified.

HELD: When the claimant decided not to return to work at the expiration of the two-day suspension, he voluntarily left work. The reason for his leaving is attributable to his employer but was not for good cause. The suspension was justified since the claimant had received a prior written warning for the same offense. The claimant voluntarily left work without good cause and is ineligible to receive benefits.

Attributable To, or Connected With Employment

50.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 50.05

Docket/Date
83-BRD-9460/8-16-83

Case Number/Authority
1./S-601A

Title Attributable To Or Connected With Employment

Subtitle General

Cross-Reference VL 210.05, General under Good Cause

The claimant left work because of the employer's conduct toward other employees. The employer was investigating thefts in the work place, had interrogated several employees, but had not interrogated the claimant.

HELD: The claimant quit work because of the treatment of his co-workers by the employer and the possibility that he might be interrogated himself. While the reason for leaving was attributable to the employer, it did not constitute a good cause for quitting because his job had not been made unsuitable. The employer had a right to investigate the thefts in the reasonable manner to which the claimant objected. The claimant voluntarily left work without good cause and is ineligible for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 50.05

Docket/Date
84-BRD-1005/1-24-84

Case Number/Authority
2./S-601A

Title Attributable To Or Connected With Employment

Subtitle General

Cross-Reference None

The claimant was employed by a credit union as an assistant manager, performing a variety of duties. She hoped to eventually become the manager. When her employer merged with another credit union, she felt that she no longer had the chance of becoming manager so she accepted a counter job when given a choice of positions. After two months in this job, she quit because she felt she was not fully using all of her skills.

HELD: Attributability may arise when the employer changes conditions or when it commits acts which affect the employment and cause the claimant to quit. The record, however, must show immediate and continuing non-acceptance of the conditions or acts. If the worker agrees to work despite the conditions or acts and then decides at some later date to leave, she has not shown good cause.

The claimant's acceptance and continuation of the employment after the merger indicated that she considered the work suitable despite the changes. Therefore, her leaving was not good cause attributable to the employer, and she is disqualified.

Issue/Digest Code	VOLUNTARY LEAVING / VL 50.05
Docket/Date	ABR-86-9166 / 7-15-87
Authority	Section 601A of the Act
Title	Attributable to or Connected With Employment
Subtitle	Early Retirement
Cross Reference	VL 210.05, Good Cause; VL 495.05, Voluntary

The employer's witness testified that the employer intended to reduce its work force. This was to be accomplished in 2 parts: the first part was an early retirement program; the second part was conditional upon the success of the first part - that is, if not enough workers took advantage of the retirement program, there would have to be layoffs.

The claimant, an Assistant Mine Manager, had heard a rumor that his position was to be eliminated. Then he was offered the early retirement package, which included financial incentives. Fearing that, if he did not accept the package, he would be demoted, which would have resulted in a financial loss, the claimant accepted the early retirement package.

HELD: The Unemployment Insurance Act provides that benefits shall be paid to individuals who are out of work due to the lack of suitable work and through no fault of their own. Accordingly, there can be no separation disqualification when a worker has been laid off, since no action taken by the worker, but, rather

a unilateral action by the employer, has caused the work separation.

In this case, the employer decided the number of positions it wanted eliminated. Had the requisite number of workers not resigned, the employer would have laid off the number necessary to meet its goal. The same number of people would have been unemployed, whether they quit or were laid off. This work separation, therefore, had the same effect as a lay off.

Further, the employer, on one hand, offered financial incentives to those workers who left; on the other hand, the employer did not interpose any safeguards or job protection for those who did not resign - those who stayed, even if they were not laid off, faced the prospect of loss of wages through demotions. It was clear then that the employer was the moving party, desirous of having workers accept an early retirement package; and those who, like the claimant, did the employer's bidding, acted as reasonable persons would have under the same or similar circumstances.

The claimant became involuntarily unemployed due to economic conditions beyond his control. This was a leaving with good cause attributable to the employer.

Issue/Digest Code	VOLUNTARY LEAVING / VL 50.05
Docket/Date	ABR-87-5552 / 4-7-88
Authority	Section 601A of the Act
Title	Attributable To or Connected With Employment
Subtitle	Risk of Illness or Injury
Cross Reference	VL 235.45 Health; VL 515.65, Working Conditions

The claimant worked in a hospital as a Registered Pediatric Nurse whose duties included providing nursing care to children with various diseases - including Acquired Immune Deficiency Syndrome [AIDS].

The hospital informed nurses as to how AIDS could be transmitted. The hospital formally instructed nurses concerning the treatment of AIDS patients. On the doors of patients who had been exposed to the AIDS virus were notices reminding nurses about blood and secretion precautions to be taken. In addition, the hospital followed established procedures that were taken for other infectious diseases transmitted through the blood, such as hepatitis, which involved precautions against contact with patients' blood and secretions.

The claimant became separated from employment because she refused to provide care for an infant who had been exposed to the AIDS virus.

HELD: Dangers inherent in a job are not necessarily attributable to the employer. Only where the risks of a job are disproportionately high, because the employer either acts or fails to act, will such a risk result in a finding of attributability.

Nursing, as an occupation, involves contact with patients who might have contracted contagious diseases. The claimant, as a nurse, assumed this risk as the ordinary risk of the nursing occupation. The evidence in this matter did not establish that the risk of the claimant's contraction of the AIDS virus was disproportionately high. This was because of the precautions taken by the employer.

The claimant did not make herself available for work despite the employer's reasonable precautions. As such, she did not have good cause attributable to the employer for leaving her job.

Citizenship or Residence Requirements

70.05 - General

Conscientious Objection

90.05 - General

Issue/Digest Code	VOLUNTARY LEAVING / VL 90.05
Docket/Date	ABR-87-1354 / 4-14-87
Authority	Section 601A of the Act
Title	Conscientious Objection
Subtitle	Religion
Cross Reference	VL 385.05, Cause of Leaving; VL 515.5, Morals

The claimant worked as a Supervisor in a medical center's kitchen. His schedule was such that he was able to attend either a Jehovah's Witness church meeting on Tuesday evening or a ministers' training session on Thursday evening.

Then the employer decided to institute a new 1 a.m. to 3 a.m. shift. The employer asked the claimant to supervise this shift, in addition to his regular shift. These additional responsibilities would have lasted 1 month. The claimant refused to work the additional hours.

In order to begin operations on its new shift, and as a result of the claimant's refusal, the employer was compelled to rearrange other supervisors' schedules. This, in turn, impacted upon the claimant. The claimant was told that his work schedule would have to be changed, temporarily, regardless. He was offered a variety of schedules, before he accepted a part-time position as a relief cook.

The relief cook job had 2 weeks left to run - after which the claimant would be returned to his regular supervisory position and shift - when the claimant observed that he would be scheduled to work both Tuesday and Thursday evenings. He promptly gave the employer 2-weeks' notice of his intention to resign.

The claimant stated that he quit because he wished to attend either the Tuesday or the Thursday church meeting - or, preferably, both. He acknowledged that he was not required by the church to attend such meetings, but that it was his personal decision to do so.

HELD: Unemployment insurance is designed to guarantee benefits to employees who are out of work through no fault of their own. The determination of fault is to be made in light of the First Amendment freedom of religion provision - and not solely on the basis of the language of a statute defining eligibility. Accordingly, if there is a true religious conviction present, benefits cannot be withheld.

In this case, the claimant was not compelled to leave work on account of a true religious conviction. His attendance at church meetings was, by his admission and by his prior attendance at only 1 of 2 meetings per week, non-obligatory. He had refused temporary work which would not have conflicted with his desire to

attend 1 meeting per week. Finally, at the time he quit, the reason for his quit no longer existed - when his 2-week notice of quit expired, so did his temporary assignment.

Neither the employer nor the state conditioned the claimant's receipt of benefits upon conduct proscribed by his faith. There was no burden upon religion. The claimant was disqualified for benefits under Section 601A.

Discharge or Leaving

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.1

Docket/Date
83-BRD-10105/8-31-83

Case Number/Authority
1./S-601A

Title: Discharge Or Leaving

Subtitle: Absence From Work

Cross-Reference: None

On October 19, the claimant was granted a two-week leave for personal reasons and was scheduled to return to work on November 8. She requested an extension of the leave, but this request was denied. She did not return to work on November 8 because she was still occupied with personal problems.

HELD: The employment relationship ended when the claimant did not return to work on November 8. A failure to return to available work at the expiration of a leave of absence is a voluntary quitting.

The claimant's reasons for leaving were personal and were not attributable to the employer. The claimant is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.1

Docket/Date
83-BRD-11723/10-20-83

Case Number/Authority
2./S-601A

Title Discharge Or Leaving

Subtitle Absence From Work

Cross-Reference VL 5.05, General under Voluntary Leaving

On February 20, 1983, the claimant requested and was granted a month's leave of absence to visit her sick father in Mexico. She did not report to work on the scheduled return date, March 20, 1983. She wrote the employer on March 28, 1983, from Mexico, to request her job when she returned. She did not advise her employer prior to her leave's expiration, and she made no attempt to extend the leave. She had been removed from the payroll.

HELD: The claimant's failure to return to work on schedule at the end of her leave of absence constituted a voluntary leaving. If she had a compelling reason for failing to return from her leave as scheduled, she failed to provide timely notification of it. Her voluntary leaving was without good cause attributable to her employer, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.1

Docket/Date
83-BRD-12269/10-31-83

Case Number/Authority
3./S-601A and S-602A

Title: Discharge Or Leaving

Subtitle: Absence From Work

Cross-Reference: None

The claimant was suspended for two days. At the end of his suspension, the claimant did not return to his job.

HELD: The claimant's failure to return to work at the end of the two-day suspension constitutes an abandonment of his job and is not a discharge. The claimant's actions constitute a voluntary leaving without good cause attributable to her employer, and, therefore, he is ineligible to receive benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.1

Docket/Date
84-BRD-3118/3-5-84

Case Number/Authority
4./S-601A and S-601B1

Title: Discharge Or Leaving

Subtitle: Absence From Work

Cross-Reference: None

The employer gave the claimant a three-month medical leave of absence on recommendation of the company doctor and her own doctor. She also followed the advice of the doctors and moved to a warm climate to recuperate. Both doctors certified that the claimant was unable to return to work when the leave period expired so the employer changed it to an indefinite leave until such time as her doctor released her to return to work.

After an additional six months, the claimant's doctor released her to return to work either in Chicago or in Florida where she had been recuperating. The claimant never notified the employer of the release, and, a month later, the employer notified the claimant that her job was to be eliminated the first of the year (a month and a half later). She had, however, previously requested a change to another position which was still available to her. When the claimant filed for benefits, she stated that no work was available for her with the employer.

HELD: When the claimant failed to return to work after her doctor released her, the condition which occasioned the leave no longer existed. At this point, she voluntarily quit her job without good cause, and the subsequent elimination of her job was not relevant since other suitable work was available.

The claimant was on an approved medical leave of absence of indefinite duration until she was released by her physician to return to work. When she was released by her physician, she failed to notify the employer and did not return to available, suitable work. These facts indicate a voluntary leaving rather than a discharge, and it is concluded that the leaving was without good cause attributable to the employer. The claimant is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.15

Docket/Date
83-BRD-3789/4-5-83

Case Number/Authority
1./S-601A and S-602A

Title Discharge Or Leaving

Subtitle Constructive Quit

Cross-Reference None

The claimant worked as a teller. The employer talked with the claimant on the date of separation about his attitude toward his co-workers and about being discourteous with the customers and asked him to improve in these respects. The claimant responded by stating that he was unhappy with his job. He added that he had no intention of improving his atitude toward the customers or his co-workers and that he wished to be discharged so that he would be eligible to collect unemployment benefits. The claimant was then discharged.

HELD: The claimant solicited his separation from work when he challenged the employer to discharge him. This amounts to a constructive quit or leaving; and, since the reasons for leaving were neither atttributable to the employer nor for good cause, the claimant is ineligible for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.2

Docket/Date
84-BRD-742/1-19-84

Case Number/Authority
1./S-601A and S-602A

Title: Discharge Or Leaving

Subtitle: Interpretation Of Remark Or Action Of Employer Or Employee

Cross-Reference: None

On October 19th, the claimant informed his supervisor that he had arranged for a job interview on October 21st in New York, and he asked for permission to take the day off. The supervisor refused permission because the claimant was working on an assignment that could not be completed before October 25th. In an interview with the adjudicator, the claimant stated, "I was told by my supervisor that if I left, I no longer needed to come back." The claimant went to the interview and was then terminated.

HELD: The employer made it clear that if the claimant took the time off he would no longer be employed. By remaining at work, the claimant could have continued the employment. However, by electing to make the trip, he took the action which severed the relationship. The separation was a voluntary leaving for a personal reason which was not attributable to the employer. The claimant is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 135.2
Docket/Date	Dunn v. Director, 476 N.E. 2d 77 (1985)
Authority	Section 601A of the Act
Title	Discharge or Leaving
Subtitle	Interpretation of Remark or Action of Employee
Cross Reference	VL 500.4, Wages, Increase Refused

The claimant worked for 3 years as a retail clerk and was earning $5.25 per hour. There was no evidence that this was an unsuitable wage. On a Friday, he wrote his employer a note: "Starting Monday ... I must have $7.60 per hour, or please send [me] my pink-slip." On Monday, the claimant did not report to work or notify the employer of the reasons for his absence. That evening, the employer responded: "You are considered to have self-terminated yourself from employment." The claimant asked whether his claim for unemployment benefits would be contested. The employer informed him that it would. On Tuesday, the claimant attempted to report to work but was escorted from the premises by security guards.

The claimant contended that, because his note gave the employer a choice (give him a 46% pay raise or a pink-slip), this was not a voluntary leaving.

HELD: Generally, if a worker has a choice of remaining

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.35

Docket/Date
83-BRD-10405/9-8-83

Case Number/Authority
1./S-601A and S-602A

Title Discharge Or Leaving

Subtitle Leaving In Anticipation Of Discharge

Cross-Reference None

The claimant was questioned about his possible involvement in some thefts committed by employees. He was asked to take a polygraph test in connection with this investigation, but he quit rather than take the test. He denied committing any thefts. The claimant had no prospect of other employment at the time he resigned.

HELD: At the time that the claimant resigned, he had no definite knowledge that he would be discharged if he refused to take a polygraph test. The claimant voluntarily left work without good cause since he has not established that a discharge was imminent. The claimant is ineligible to receive benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.35

Docket/Date
83-BRD-11134/9-30-83

Case Number/Authority
2./S-601A and S-602A

Title
Discharge Or Leaving

Subtitle
Leaving In Anticipation Of Discharge

Cross-Reference
None

The claimant quit her job because she felt that she might be discharged because of her poor attendance record. She had been taking time off due to illness. She was not informed by the employer that she was going to be discharged for any reason, prior to her leaving.

HELD: The claimant voluntarily left work in anticipation of being discharged; however, she was never told by her employer that her discharge was imminent. The claimant's separation was a voluntary leaving which was not attributable to the employer, and she is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.4

Docket/Date
83-BRD-7837/6-30-83

Case Number/Authority
1./S-601A and S-602A

Title Discharge Or Leaving

Subtitle Resignation Intended

Cross-Reference None

The claimant notified the employer on April 6th that April 16th would be her last day of work because she was going to get married and move out of town. She called in sick the next two working days, and, when the employer telephoned her home, her mother stated that she was out shopping. She did not report or telephone on the third day, and she was told her services were no longer required. The employer filled her position.

HELD: The claimant gave notice to quit her job because she was getting married and moving to another area. Her actions subsequent to giving the notice were consistent with the abandoment of her job, and the employer rightfully accelerated her date of leaving. The claimant's decision to quit her job for reasons of marriage and relocation was a matter of personal choice and is not attributable to the employer. She is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.4

Docket/Date
83-BRD-9680/8-23-83

Case Number/Authority
2./S-601A

Title Discharge Or Leaving

Subtitle Resignation Intended

Cross-Reference None

In December, the claimant announced her resignation effective the end of January. Her husband had accepted a new job, and they would be relocating to another state. Her replacement was hired on January 8 and was to begin work on January 20. The claimant and her husband reconsidered their decision to move, and, on January 10, she attempted to rescind her resignation, but the employer refused her request.

HELD: The claimant initiated the separation by informing the employer that she intended to resign because she was moving out of state. The employer's refusal to accept the claimant's later attempt to withdraw her resignation did not change the separation from a voluntary leaving to a discharge. Therefore, the claimant voluntarily left work without good cause attributable to the employer and is ineligible to receive benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 135.4

Docket/Date
83-BRD-14515/12-7-83

Case Number/Authority
3./S-601A and S-602A

Title
Discharge Or Leaving

Subtitle
Resignation Intended

Cross-Reference
VL 150.15, Removal From Locality under Distance To Work

The claimant relocated to a community a considerable distance away from the employer and notified the employer that she intended to quit work in two weeks. She called in sick two days before she was scheduled to quit, and the employer told her not to report after that date.

HELD: The evidence established that the claimant quit work because of her relocation and that the employer merely accelerated her last day of work. The claimant's reason for leaving work was personal and did not constitute good cause attributable to the employer. She is is ineligible to receive benefits.

Disciplinary Action

138.05 - General

Discrimination

139.05 - General

Distance to Work

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 150.15

Docket/Date
83-BRD-14515/12-7-83

Case Number/Authority
1./S-601A and S-602A

Title: Distance To Work

Subtitle: Removal From Locality

Cross-Reference: VL 135.4, Resignation Intended under Discharge Or Leaving

The claimant relocated to a community a considerable distance away from the employer and notified the employer that she intended to quit work in two weeks. She called in sick two days before she was scheduled to quit, and the employer told her not to report after that date.

HELD: The evidence established that the claimant quit work because of her relocation and that the employer merely accelerated her last day of work. The claimant's reason for leaving work was personal and did not constitute good cause attributable to the employer. She is is ineligible to receive benefits.

Domestic Circumstances

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.1

Docket/Date
83-BRD-3122/3-24-83

Case Number/Authority
1./S-601A

Title
Domestic Circumstances

Subtitle
Children, Care Of

Cross-Reference
None

The claimant's mother usually took care of the claimant's minor children while she worked but could no longer do so due to illness. The claimant's inability to find alternative suitable child supervision forced her to leave her job.

HELD: Although the claimant's reason for leaving work was due to a compelling personal circumstance, it was not attributable to the employer. Therefore, the claimant is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 155.1
Docket/Date	ABR-88-3688 / 7-14-88
Authority	Section 601A of the Act
Title	Domestic Circumstances
Subtitle	Children, Care of
Cross Reference	Vl 160.05, Efforts to Retain Employment

The employer was about to transfer the claimant to work at a different location with different hours. The change in hours would affect her child care situation. She explained this to the employer. The employer offered to delay her transfer to give her time to resolve the child care problem. Instead, she quit.

HELD: When an individual leaves work in order to care for her children, the factor that determines whether she leaves with good cause is the necessity that exists at the time of leaving.

In this case, the employer was willing to make a reasonable accommodation, in terms of time, so that a child care problem might be resolved. Whether or not the problem would be resolved eventually, no necessity to leave existed at the time the claimant left. Therefore, she left work without good cause and was subject to disqualification under Section 601A.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.2

Docket/Date
83-BRD-14150/6-28-83

Case Number/Authority
1./S-601A

Title Domestic Circumstances

Subtitle Home Or Spouse In Another Locality

Cross-Reference None

When the claimant was separated from her husband and found that she was unable to support her family, she decided to quit her job and move to Alabama, where she has relatives.

HELD: While the claimant may have left work for valid personal reasons, they were not attributable to her employer, and she is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.2

Docket/Date
83-BRD-7398/6-15-83

Case Number/Authority
2./S-601A

Title: Domestic Circumstances

Subtitle: Home Or Spouse In Another Locality

Cross-Reference: None

The claimant worked as an iron worker out of state for fifteen months at a wage of $16.25 per hour. He quit his job because he felt his absence was a strain on his family. He also believed that he had a fairly good chance of finding work through his union affiliations near his home.

HELD: The claimant's decision to quit his job to obtain work near his home was a matter of choice and not a factor which can be deemed attributable to the employer. The claimant voluntarily left work without good cause attributable to the employer and is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.2

Docket/Date
83-BRD-1119/9-30-83

Case Number/Authority
3./S-601A

Title
Domestic Circumstances

Subtitle
Home Or Spouse In Another Locality

Cross-Reference
None

The claimant worked as a production clerk for 15 years before she quit her job. Her husband was transferred out of a state on a job promotion, and she relocated with him.

HELD: The claimant voluntarily left work to relocate with her husband. Although she quite her job for a good personal reason, it is not attributable to her employer, and she is ineligible to receive benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.2

Docket/Date
83-BRD-14855/12-13-83

Case Number/Authority
4./S-601A

Title
Domestic Circumstances

Subtitle
Home Or Spouse In Another Locality

Cross-Reference
None

The claimant left her job to move to Mississippi when her husband was transferred.

HELD: The sole reason for leaving work was to relocate to Mississippi to be with her husband. This is a compelling personal reason but is not attributable to the employer. Therefore, her leaving was without good cause, and she is disqualified for benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.35

Docket/Date
83-BRD-3343/3-31-83

Case Number/Authority
1./S-601A and 601B1

Title: Domestic Circumstances

Subtitle: Illness Or Death Of Others

Cross-Reference: None

The claimant worked for the employer as a clerk for eleven years. She began her vacation, and, before she was scheduled to return to work, her husband suffered a heart attack. The claimant notified her supervisor she would be unable to return to work as planned. She did not request a leave of absence, nor did she understand that she had been granted one. Her supervisor told her that he understood the problem and that she should keep the employer informed of her intentions.

The husband's doctor had not advised the claimant that it was necessary for her to be with her husband full time, but she felt that this was the proper thing to do.

Although the claimant contacted co-workers on several occasions, she did not contact her supervisor again and did not respond to a letter which inquired as to when she planned to return to work. The employer assumed that the claimant had quit. The claimant stated that she had not received the employer's letter because it was sent to her old address.

HELD: The claimant voluntarily quit her employment when she did not return to available work at the end of her vacation. She might have avoided this consequence if she had requested and been granted a leave of absence, but she did

not do so. This result was confirmed in the mind of the employer when the claimant made no further effort to contact him and when she did not reply to his letter of inquiry.

While the claimant quit her job for a compelling domestic reason, it was not a cause which was attributable to the employer, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 155.35

Docket/Date
83-BRD-10482/3-31-83

Case Number/Authority
2./S-601B1.

Title Domestic Circumstances

Subtitle Illness Or Death Of Others

Cross-Reference None

The claimant was granted a two-month leave of absence to care for her mother, who was seriously ill. Prior to the expiration of her leave, the claimant telephoned the employer and stated that her mother's doctor advised her that she was needed to care for her mother. The claimant indicated she could not return to work in the foreseeable future. The doctor's statement indicated that the claimant "must be accessible to assist with the full body care her mother required."

HELD: The claimant left work on the advice of a licensed and practicing physician to provide necessary assistance in the care of her mother. Such assistance would not allow her to perform her usual and customary duties, and she notified the employer of the reasons for her absence from work. Under these circumstances, the claimant would not be subject to any disqualification of benefits for voluntarily leaving her work without good cause attributable to the employer.

Issue/Digest Code	VOLUNTARY LEAVING / VL 155.35
Docket/Date	ABR-85-9787 / 8-20-86
Authority	Section 601 of the Act
Title	Domestic Circumstances
Subtitle	Illness or Death of Others
Cross Reference	None

The Referee found that the claimant left her job to relocate to Arkansas to tend to her terminally ill mother: her mother had falling spasms and was unable to get up by herself. In making that finding, the Referee relied upon a doctor's statement, which read, in pertinent part:

> [The claimant's mother] does have some post-stroke hemaparesis along with poorly controlled diabetes. She does have considerable disability as far as taking care of her home and her needs.

The Referee then concluded that, because the claimant was not specifically advised by a doctor to leave her work to minister to her mother, she did not meet the conditions for a Section 601B-1 exception to the disqualifying provisions of Section 601A.

HELD: Section 601B-1 of the Act provides, in pertinent part, that a disqualification for Voluntary Leaving, under Section 601A, shall not apply, if an individual has left work -

> upon the advice of a licensed and practicing physician that assistance is necessary for the purpose of caring for ... a parent who is in poor physical health and such assistance will not allow [the claimant] to perform the usual and customary duties of ... employment ....

Section 601B-1 does not state that a doctor must tell a worker to leave her job.

In this case, it was immaterial that the doctor did not tell the claimant to leave her job. What was decisive was that the claimant's mother, according to her doctor, could not take care of herself, and that the doctor advised the claimant that care was necessary for her mother.

The claimant was not subject to a disqualification for benefits by reason of having left work, because of the exemption set forth under Section 601B-1 of the Act.

Efforts to Retain Employment

160.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 160.05

Docket/Date
83-BRD-10304/9-7-83

Case Number/Authority
1./S-601A

Title Efforts To Retain Employment

Subtitle General

Cross-Reference None

The claimant worked for the employer in Joliet as an assistant manager and head cook. He requested a transfer to the Springfield office and accepted it when it became available two months later. After another individual was hired to train for his job in Joliet, the claimant began to doubt whether he could afford to make the move. At the suggestion of the manager, the claimant went to discuss it with his wife and never returned. The employer testified that the claimant could have remained employed at his former location had he asked to stay. The claimant was subsequently rehired after the period under review.

HELD: The claimant caused his own separation from work. He was subsequently rehired as head chef, which position would have been open to him if he had decided to stay in Joliet.

Accordingly, the claimant voluntarily left work without good cause attributable to the employer and, therefore, is disqualified for benefits.

Equipment

180.05 - General

Evidence

Experience or Training

195.05 - General

Good Cause

210.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 210.05

Docket/Date
83-BRD-9460/8-16-83

Case Number/Authority
1./S-601A

Title Good Cause

Subtitle General

Cross-Reference VL 50.05, General under Attributable To Or Connected With Employment

The claimant left work because of the employer's conduct toward other employees. The employer was investigating thefts in the work place, had interrogated several employees, but had not interrogated the claimant.

HELD: The claimant quit work because of the treatment of his co-workers by the employer and the possibility that he might be interrogated himself. While the reason for leaving was attributable to the employer, it did not constitute a good cause for quitting because his job had not been made unsuitable. The employer had a right to investigate the thefts in the reasonable manner to which the claimant objected. The claimant voluntarily left work without good cause and is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 210.05
Docket/Date	ABR-86-9166 / 7-15-87
Authority	Section 601A of the Act
Title	Good Cause
Subtitle	Early Retirement
Cross Reference	VL 50.05, Attributable; VL 495.05, Voluntary

The employer's witness testified that the employer intended to reduce its work force. This was to be accomplished in 2 parts: the first part was an early retirement program; the second part was conditional upon the success of the first part - that is, if not enough workers took advantage of the retirement program, there would have to be layoffs.

The claimant, an Assistant Mine Manager, had heard a rumor that his position was to be eliminated. Then he was offered the early retirement package, which included financial incentives. Fearing that, if he did not accept the package, he would be demoted, which would have resulted in a financial loss, the claimant accepted the early retirement package.

HELD: The Unemployment Insurance Act provides that benefits shall be paid to individuals who are out of work due to the lack of suitable work and through no fault of their own. Accordingly, there can be no separation disqualification when a worker has been laid off, since no action taken by the worker, but rather

a unilateral action by the employer, has caused the work separation.

In this case, the employer decided the number of positions it wanted eliminated. Had the requisite number of workers not resigned, the employer would have laid off the number necessary to meet its goal. The same number of people would have been unemployed, whether they quit or were laid off. This work separation, therefore, had the same effect as a lay off.

Further, the employer, on one hand, offered financial incentives to those workers who left; on the other hand, the employer did not interpose any safeguards or job protection for those who did not resign - those who stayed, even if they were not laid off, faced the prospect of loss of wages through demotions. It was clear then that the employer was the moving party, desirous of having workers accept an early retirement package; and those who, like the claimant, did the employer's bidding, acted as reasonable persons would have under the same or similar circumstances.

The claimant became involuntarily unemployed due to economic conditions beyond his control. This was a leaving with good cause attributable to the employer.

Health or Physical Condition

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 235.05

Docket/Date
83-BRD-11574/10-18-83

Case Number/Authority
1./S-601B1.

Title Health Or Physical Condition

Subtitle General

Cross-Reference None

The claimant worked for the employer as a clerk until February 14, 1983. The claimant had surgery on February 16, 1983, and she was too weak to return to work. She did not obtain a medical leave of absence.

The claimant was under doctor's care and, according to her medical certification on record, she was unable to work from February 14, 1983 through April 4, 1983. This information was given to the employer.

HELD: The claimant was deemed physically unable to perform her work by a licensed and practicing physician from February 14, 1983 through April 4, 1983, and she notified the employer of her reasons for leaving work. She was not disqualified from receiving benefits.

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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 235.05

Docket/Date
83-BRD-982-EB/11-4-83

Case Number/Authority
2./S-601A and S-601B1.

Title Health Or Physical Condition

Subtitle General

Cross-Reference VL 235.45, Risk Of Illness Or Injury under Health Or Physical Condition

The claimant left her work as a machine operator after six weeks because she felt under stress and believed that her health was threatened. She testified that she did not see a physician prior to her decision to quit work.

HELD: The Act establishes an exemption from disqualification for a claimant who has left work voluntarily without good cause attributable to the employer, if two conditions have been met:

1. The claimant must have been deemed physically unable to perform his work by a licensed and practicing physician, and

2. He must have communicated this information to the employing unit.

The claimant has failed to meet either of these requirements prior to leaving work. Therefore, she is not exempt from disqualification and is ineligible to receive benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 235.25

Docket/Date
83-BRD-12990/11-15-83

Case Number/Authority
1./S-601

Title Health Or Physical Condition

Subtitle Illness Or Injury

Cross-Reference None

The claimant, who is 65 years of age, was employed as a security guard. The claimant worked from 4 p.m. to midnight and was stationed in a trailer in a large parking lot. When the claimant started work in the summer, there was light and air conditioning in the trailer. As the weather changed in the fall, there was neither light nor heat in the trailer. The claimant complained about the lack of heat to her supervisor on several occasions. The claimant asked to be transferred but was told that there was no other job available for a woman. The claimant contended that the lack of heat was affecting her health, and, after several repeated requests for heat, the claimant voluntarily quit her job.

HELD: The conditions of the claimant's work changed substantially and adversely due to seasonal changes. The working conditions adversely affected the claimant's health, and she had a compelling reason to leave the job when the employer failed to correct the situation. She voluntarily left her employment with good cause attributable to the employer and is not subject to any disqualification.

ILLINOIS
DEPARTMENT OF
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 235.45

Docket/Date
83-BRD-982-EB/11-4-83

Case Number/Authority
1./S-601A and S-601B1.

Title: Health Or Physical Condition

Subtitle: Risk Of Illness Or Injury

Cross-Reference: VL 235.05, General under Health Or Physical Condition

The claimant left her work as a machine operator after six weeks because she felt under stress and believed that her health was threatened. She testified that she did not see a physician prior to her decision to quit work.

HELD: The Act establishes an exemption from disqualification for a claimant who has left work voluntarily without good cause attributable to the employer, if two conditions have been met:

1. The claimant must have been deemed physically unable to perform his work by a licensed and practicing physician, and

2. He must have communicated this information to the employing unit.

The claimant has failed to meet either of these requirements prior to leaving work. Therefore, she is not exempt from disqualification and is ineligible to receive benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 235.45
Docket/Date	Patrick Burke v. Board of Review, 477 N.E. 2d 1351
Authority	Section 601A of the Act
Title	Health or Physical Condition
Subtitle	Risk of Illness or Injury
Cross Reference	VL 515.65, Working Conditions, Safety

The claimant, a worker in a nuclear facility, testified that 2 fellow employees had been found to be contaminated with radiation. The extent of their contamination, he testified, was that, upon leaving the facility, they had to take showers and some work clothing was lost. The claimant himself was found not to be contaminated. Nonetheless, believing that there were areas of radiation still unknown, making working conditions unduly hazardous for him, the claimant quit. At no time had he sought medical treatment or advice, nor had he complained to superiors about the purportedly hazardous conditions. He stated that he did not complain because he did not wish to be branded a troublemaker.

HELD: In order to demonstrate that health is a compelling reason for terminating employment, a claimant must:

(1) offer competent testimony (some medical evidence) that adequate health reasons existed to justify termination at the time of termination;
(2) have informed the employer of the health problem, and
(3) be available, where a reasonable accommodation is made by the employer, for work which is not inimical to his health.

The failure to satisfy any one of the three conditions explicated above will bar a claim for unemployment compensation.

In the case at bar, the claimant did not establish good cause attributable to his employer based upon health reasons. He did not adduce any medical evidence to support the allegations concerning alleged health problems. He did not report purportedly unsafe conditions to his employer. His conduct did not meet the standard of ordinary common sense; in short, he did not act in good faith. As a result, he was disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 235.45
Docket/Date	ABR-87-5552 / 4-7-88
Authority	Section 601A of the Act
Title	Health or Physical Condition
Subtitle	Risk of Illness or Injury
Cross Reference	VL 50.05, Attributable; VL 515.65, Working Conditions

The claimant worked in a hospital as a Registered Pediatric Nurse whose duties included providing nursing care to children with various diseases - including Acquired Immune Deficiency Syndrome [AIDS].

The hospital informed nurses as to how AIDS could be transmitted. The hospital formally instructed nurses concerning the treatment of AIDS patients. On the doors of patients who had been exposed to the AIDS virus were notices reminding nurses about blood and secretion precautions to be taken. In addition, the hospital followed established procedures that were taken for other infectious diseases transmitted through the blood, such as hepatitis, which involved precautions against contact with patients' blood and secretions.

The claimant became separated from employment because she refused to provide care for an infant who had been exposed to the AIDS virus.

HELD: Dangers inherent in a job are not necessarily attributable to the employer. Only where the risks of a job are disproportionately high, because the employer either acts or fails to act, will such a risk result in a finding of attributability.

Nursing, as an occupation, involves contact with patients who might have contracted contagious diseases. The claimant, as a nurse, assumed this risk as the ordinary risk of the nursing occupation. The evidence in this matter did not establish that the risk of the claimant's contraction of the AIDS virus was disproportionately high. This was because of the precautions taken by the employer.

The claimant did not make herself available for work despite the employer's reasonable precautions. As such, she did not have good cause attributable to the employer for leaving her job.

Issue/Digest Code	VOLUNTARY LEAVING / VL 235.45
Docket/Date	ABR-88-1316 / 5-31-88
Authority	Section 601 of the Act
Title	Health or Physical Condition
Subtitle	Risk of Illness or Injury
Cross Reference	VL 425.05, Suitability of Work

The claimant accepted a job as a machine operator. Shortly after acceptance, she learned that, despite the job's title, she was required to lift metal shafts, some weighing 100 lbs. During the first week of training, other workers assisted her. During the second week of training, knowing she would not be able to lift the shafts when left to herself, she quit.

She was disqualified for benefits because she did not consult a physician before leaving.

HELD: Section 601B-5 provides that there will be no disqualification if a job is unsuitable at the time of acceptance. When it is the suitability of the work for the individual and not a medical condition that causes her to quit, it is unnecessary for her to seek the advice of a physician.

In this case, the claimant left work that was unsuitable due to her size and strength limitations. She was not disqualified.

Leaving Without Notice

290.05 - General

Voluntary Leaving
Military Service

Military Service

305.05 - General

VL 305

Voluntary Leaving
New Work

New Work

315.05 - General

VL 315

Voluntary Leaving
Pension-Retirement

Pension- Retirement

345.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 345.05

Docket/Date
83-BRD-121-FE/10-7-83

Case Number/Authority
1./S-601A and S-601B1.

Title Pension

Subtitle General

Cross-Reference None

The claimant worked as a letter carrier for 10 years. He left his job to retire and collect his pension on February 28, 1983, and his retirement was not compulsory. The work involved considerable walking and his legs had begun to bother him, but he had not been advised to quit by a physician. In his appeal the claimant submitted a letter from his physician, dated June 3, 1983, stating that the claimant had been under his care. It did not state he had been deemed physically unable to perform his work prior to leaving the job.

HELD: A worker who leaves work when retirement is not compulsory leaves work voluntarily. The claimant left work because he had sufficient seniority to retire and to collect his pension and not on the advice of his physician. This is voluntary leaving without good cause attributable to the employer. The claimant is ineligible to receive benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 345.05

Docket/Date
83-BRD-13124/11-16-83

Case Number/Authority
2./S-601A

Title Pension

Subtitle General

Cross-Reference None

The claimant is sixty-two years old and had worked for the employer thirty-five years as a packer. The claimant voluntarily left employment to receive union retirement benefits, which were more than the wages he received by working. The employer testified that there was no mandatory retirement age for employees and that other employees worked while in their late sixties or seventies.

HELD: While the claimant quit for a compelling personal reason, it was not attributable to the employer. He is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 345.05
Docket/Date	ABR-86-5060 / 3-30-87
Authority	Section 601A of the Act
Title	Pension - Retirement
Subtitle	Early Retirement
Cross Reference	VL 450.25, Lay-off Imminent; VL 500.1, Wages, Agreement

The claimant had been employed, as a Tool Maker, for 18 years. The employer was contemplating a reduction in work force, and, toward that end, told the claimant that if he were to retire on or before April 18, 1986, he would be entitled to his retirement pension, which included a medical package which included his sick wife. He was also told that if he were to retire after April 18, 1986, he would not be granted the medical package and benefits which included his sick wife. On April 18, 1986, the claimant applied for early retirement, so that his sick wife would be covered by his medical benefits.

HELD: Some employers have adopted special early retirement programs for the purpose of encouraging older workers to retire early and gain certain advantages, such as bonuses or increased benefits. In those cases, whether a worker leaves with good cause attributable to the employer is determined by examining, where applicable, the following factors: the period of time between early retirement and mandatory retirement; the degree of encouragement by supervisory personnel to retire early; whether

the inducement to retire is financially substantial; in short, the question to be asked is whether a reasonably prudent person, under the same or similar circumstances, would accept early retirement.

Notwithstanding the above, care must be taken to distinguish cases such as the instant one. In the instant case, the employer did not offer the claimant a package containing any advantages; rather, the employer sought to discontinue existing medical coverage. The claimant was confronted by an imminent and material breach of the continued working agreement. His apprehension was reasonable, in that this would impose a financial burden upon him; he had a compelling reason for leaving - a reasonable person would not have waited to suffer the actual detriment. The work had been rendered unsuitable, and the claimant left work with good cause attributable to his employer, without disqualification under Section 601A.

Period of Disqualification

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 350.5

Docket/Date
83-BRD-14635/12-8-83

Case Number/Authority
1./S-601B2.

Title Period Of Disqualification

Subtitle Subsequent Employment

Cross-Reference VL 365.15, Definite under Prospect Of Other Work

The claimant was on a medical leave of absence due to an injury, and, when he returned to work, he was placed in a lower paying position. He worked at this new job for five weeks, became dissatisified with it, and located other bona fide work. He remained employed at this job for seven weeks.

HELD: The evidence clearly established that the claimant left work in order to accept new bona fide work which he then held for a period of more than two weeks. Under the circumstances, he is not subject to any disqualification for benefits for voluntarily leaving work.

Personal Affairs

360.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 360.05

Docket/Date
83-BRD-10125/8-13-83

Case Number/Authority
1./S-601A

Title
Personal Affairs

Subtitle
General

Cross-Reference
None

The claimant quit work to go to California to seek custody of his children who were living in that state with his wife from who he was separated. The claimant requested a leave of absence for 6 months or one year which was denied him.

HELD: The claimant voluntarily left work for compelling personal reasons which were not attributable to the employer. He is ineligible for benefits.

Personal Appearance

363.05 - General

Prospect of Other Work

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 365.05

Docket/Date
83-BRD-11423/10-7-83

Case Number/Authority
1./S-601A

Title
Prospect Of Other Work

Subtitle
General

Cross-Reference
VL 365.25, Uncertain under Prospect Of Other Work

The claimant worked as a delivery driver. He was offered a similar job by another employer at a higher wage and gave his employer two weeks' notice. Prior to the expiration of the two-week period, he fell and injured his back at work. He informed his new employer that he would not be able to begin work until his situation improved, and he was told to contact them when he could begin work. One and a half weeks later, he contacted the new employer but was told the position had been filled.

HELD: The claimant quit work to accept a new job. The job did not materalize because of the claimant's inability to begin work as scheduled. The claimant is disqualified from benefits for voluntarily leaving his first job without good cause attributable to his employer. Had he been able to enter into his second employment and either worked in each of two weeks or had earnings equal to twice his weekly benefit amount, he would have avoided the disqualification.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 365.15

Docket/Date
83-BRD-14635/12-8-83

Case Number/Authority
1./S-601B2.

Title: Prospect Of Other Work

Subtitle: Definite

Cross-Reference: VL 350.5, Subsequent Employment under Period Of Disqualification

The claimant worked as a service advisor and quit his job. The claimant was on a medical leave of absence due to injury, and when he returned to work, he was placed in a lower paying position. He worked at this new job for five weeks, became dissatisfied with it, and located other work. He remained employed at this job for seven weeks.

HELD: The evidence clearly established that the claimant left work in order to accept a new job which he then held for a period of more than two weeks. Under the circumstances, he is not subject to any disqualification for voluntarily leaving work.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 365.25

Docket/Date
83-BRD-11423/10-7-83

Case Number/Authority
1./S-601A

Title Prospect Of Other Work

Subtitle Uncertain

Cross-Reference VL 365.05, General under Prospect Of Other Work

The claimant worked as a delivery driver. He was offered a similar job by another employer at a higher wage and gave his employer two weeks' notice. Prior to the expiration of the two-week period, he fell and injured his back at work. He informed his new employer that he would not be able to begin work until his situation improved, and he was told to contact them when he could begin work. One and a half weeks later, he contacted the new employer but was told the position had been filled.

HELD: The claimant quit work to accept a new job. The job did not materalize because of the claimant's inability to begin work as scheduled. The claimant is disqualified from benefits for voluntarily leaving his first job without good cause attributable to his employer. Had he been able to enter into his second employment and either worked in each of two weeks or had earnings equal to twice his weekly benefit amount, he would have avoided the disqualification.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 365.25

Docket/Date
83-BRD-12664/11-9-83

Case Number/Authority
2./S-601A

Title Prospect Of Other Work

Subtitle Uncertain

Cross-Reference None

The claimant was last employed as a furnace knockout man. He quit his job to accept work with his brother in the Ottawa-Marseilles area, where his brother was supposed to receive an entire route of campground maintenance work. In contemplation of working for his brother, the claimant moved to Marseilles, Illinois. After the claimant moved, the job with his brother did not materialize.

HELD: The claimant left work to accept alternate work under more favorable conditions. The claimant's reasons for leaving were not attributable to the employer, and he is ineligible to receive benefits.

Relation of Alleged Cause to Leaving

385.05 - General

Issue/Digest Code	VOLUNTARY LEAVING / VL 385.05
Docket/Date	ABR-87-1354 / 4-14-87
Authority	Section 601A of the Act
Title	Relation of Alleged Cause of Leaving
Subtitle	Alleged Burden upon Religion
Cross Reference	VL 90.05, Conscientious Objection; VL 515.5, Morals

The claimant worked as a Supervisor in a medical center's kitchen. His schedule was such that he was able to attend either a Jehovah's Witness church meeting on Tuesday evening or a ministers' training session on Thursday evening.

Then the employer decided to institute a new 1 a.m. to 3 a.m. shift. The employer asked the claimant to supervise this shift, in addition to his regular shift. These additional responsibilities would have lasted 1 month. The claimant refused to work the additional hours.

In order to begin operations on its new shift, and as a result of the claimant's refusal, the employer was compelled to rearrange other supervisors' schedules. This, in turn, impacted upon the claimant. The claimant was told that his work schedule would have to be changed, temporarily, regardless. He was offered a variety of schedules, before he accepted a part-time position as a relief cook.

The relief cook job had 2 weeks left to run - after which the claimant would be returned to his regular supervisory position and shift - when the claimant observed that he would be scheduled to work both Tuesday and Thursday evenings. He promptly gave the employer 2-weeks' notice of his intention to resign.

The claimant stated that he quit because he wished to attend either the Tuesday or the Thursday church meeting - or, preferably, both. He acknowledged that he was not required by the church to attend such meetings, but that it was his personal decision to do so.

HELD: If an alleged cause of leaving is to be considered good cause, it must exist at the time of leaving. If the alleged grievance or condition has been remedied or is about to be remedied, it cannot be considered good cause for leaving.

In this case, regardless of any alleged burden upon religion, at the time the claimant left work, no such burden existed. At the time the claimant's 2-weeks' notice of quit expired, so did his temporary job; he would have been back in his supervisory position, working the same shift as had always been acceptable. Because the claimant's alleged cause of leaving did not exist at the time of leaving, he was disqualified under Section 601A.

Suitability of Work

425.05 - General

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 425.05

Docket/Date
83-BRD-11814/10-24-83

Case Number Authority
1./S-601A

Title Suitability Of Work

Subtitle General

Cross-Reference None

The claimant was dissatisfied with a series of changes on her job, including the dropping of health insurance benefits for all employees, and the requirement that the claimant, as well as other clerical personnel, punch a time clock. As a result, the claimant quit her job.

HELD: The modifications of the procedures to be followed by employees were not of so substantial a nature as to render the work unsuitable for the claimant. The claimant left work without good cause attributable to the employer, and she is ineligible to receive benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 425.05
Docket/Date	ABR-88-1316 / 5-31-88
Authority	Section 601 of the Act
Title	Suitability of Work
Subtitle	Section 601B-5
Cross Reference	VL 235.45, Health or Physical Condition

The claimant accepted a job as a machine operator. Shortly after acceptance, she learned that, despite the job's title, she was required to lift metal shafts, some weighing 100 lbs. During the first week of training, other workers assisted her. During the second week of training, knowing she would not be able to lift the shafts when left to herself, she quit.

She was disqualified for benefits because she did not consult a physician before leaving.

HELD: Section 601B-5 provides that there will be no disqualification if a job is unsuitable at the time of acceptance. When it is the suitability of the work for the individual and not a medical condition that causes her to quit, it is unnecessary for her to seek the advice of a physician.

In this case, the claimant left work that was unsuitable due to her size and strength limitations. She was not disqualified.

Termination of Employment

440.05 - General

Time

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 450.153

Docket/Date
83-BRD-532-FSC/10-5-83

Case Number/Authority
1./S-601A

Title: Time

Subtitle: Hours Long or Short

Cross-Reference: None

The claimant left work because his scheduled hours were reduced from 19 to 13 hours per week.

HELD: While attributable to the employer, this is not a good cause for leaving. If the claimant's wages are reduced to less than his weekly benefit amount, he can file a claim for unemployment benefits while he works the reduced hours and looks for other work. He is disqualified for voluntarily leaving work without good cause and is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 450.25
Docket/Date	ABR-86-5060 / 3-30-87
Authority	Section 601A of the Act
Title	Time
Subtitle	Lay-off Imminent
Cross Reference	VL 345.05, Retirement; VL 500.1, Wages, Agreement

The claimant had been employed, as a Tool Maker, for 18 years. The employer was contemplating a reduction in work force, and, toward that end, told the claimant that if he were to retire on or before April 18, 1986, he would be entitled to his retirement pension, which included a medical package which included his sick wife. He was also told that if he were to retire after April 18, 1986, he would not be granted the medical package and benefits which included his sick wife. On April 18, 1986, the claimant applied for early retirement, so that his sick wife would be covered by his medical benefits.

HELD: Some employers have adopted special early retirement programs for the purpose of encouraging older workers to retire early and gain certain advantages, such as bonuses or increased benefits. In those cases, whether a worker leaves with good cause attributable to the employer is determined by examining, where applicable, the following factors: the period of time between early retirement and mandatory retirement; the degree of encouragement by supervisory personnel to retire early; whether

the inducement to retire is financially substantial; in short, the question to be asked is whether a reasonably prudent person, under the same or similar circumstances, would accept early retirement.

Notwithstanding the above, care must be taken to distinguish cases such as the instant one. In the instant case, the employer did not offer the claimant a package containing any advantages; rather, the employer sought to discontinue existing medical coverage. The claimant was confronted by an imminent and material breach of the continued working agreement. His apprehension was reasonable, in that this would impose a financial burden upon him; he had a compelling reason for leaving - a reasonable person would not have waited to suffer the actual detriment. The work had been rendered unsuitable, and the claimant left work with good cause attributable to his employer, without disqualification under Section 601A.

Issue/Digest Code	VOLUNTARY LEAVING / VL 450.35
Docket/Date	Hamilton v. Board of Review, 482 N.E. 2d 1126 (1985)
Authority	Section 601A of the Act
Title	Time
Subtitle	Overtime
Cross Reference	None

The claimant, a shipping clerk, was an hourly employee. The employer offered to place her on salary at an increase in regular pay. She accepted.

At the time of acceptance, the claimant knew that, as a salaried worker as opposed to an hourly worker, she would be required to work overtime. Also, she would be paid less for overtime than would an hourly worker (although her total of regular and overtime pay would be greater).

One month passed. The claimant was dissatisfied with her overtime pay. Her family was dissatisfied with her working overtime hours. On a Friday, the claimant asked to be reinstated as an hourly worker upon whom no overtime demands would be made.

The employer agreed to reinstate her as of the following Monday, the start of the next payroll period. In the meantime, she

was directed to report for weekend overtime work as scheduled.

The claimant told her employer that she would not work that weekend. The employer responded that overtime work was a condition of the job she had accepted, and, until Monday, she would have to live with the salaried conditions.

The claimant did not report for work on Saturday or Sunday. On Monday, she reported to the employer's office, not to work, but to inquire about vacation pay and profit-sharing.

HELD: Overtime work is not per se unsuitable and does not constitute good cause for leaving. Other factors might render overtime work unsuitable; for example, if it is at unilaterally and substantially reduced compensation.

In this case, the claimant was paid pursuant to an agreement and the employer did nothing to alter the terms of that agreement. If anything, the employer demonstrated that it was willing to accommodate the claimant.

The evidence showed only that the claimant was dissatisfied with overtime work. That alone did not render the work unsuitable. She left without good cause and was ineligible for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 450.4

Docket/Date
83-BRD-13404/11-21-83

Case Number/Authority
1./S-601A

Title Time

Subtitle Part-Time Or Full-Time

Cross-Reference None

The claimant was a supervisor in the employer's dietary department when he voluntarily quit his job. The claimant testified that the departmental director informed him that his full-time position was being terminated but that he could continue to work part-time. The claimant did so until he was told by the director that he should look for a full-time job because his former position probably would not be reinstated. The claimant testified that he was unable to meet his expenses in the part-time position and decided to quit his job in order to find full-time work.

HELD: The claimant could have continued working part-time and searched for a full-time position but chose to leave work altogether. This contstitutes a voluntary leaving without good cause attributable to the employer, and the claimant is ineligible to receive benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 450.4

Docket/Date
84-BRD-3089/3-2-84

Case Number/Authority
2./S-601A

Title Time

Subtitle Part-Time Or Full-Time

Cross-Reference VL 5.05, General under Voluntary Leaving

The claimant was on a disability leave of absence for a period of fourteen months. When she reapplied for work with her last employer, she was offered a job but was told that the hours of work for all employees were being reduced. The claimant refused the job because she did not like the part-time work, and then she retired on social security.

HELD: Part-time work is not unsuitable per se, and a leaving because the work is less than full-time hours is generally without good cause attributable to the employing unit if the hours of work or reporting requirements do not prevent the claimant from seeking full-time work. The claimant could have looked for work in this case while working part-time. It must be concluded that she voluntarily left her job without good cause, and she is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 450.4

Docket/Date
IL. App. 1st Div. 83-1462/2-6-84

Case Number/Authority
3./S-601A

Title
Time

Subtitle
Part-Time Or Full-Time

Cross-Reference
None

The claimant worked to support an 8 year old son who had a speech problem and a learning disability. She left her work at Marshall Field's after her request for full-time work was denied. She testified, "I needed more money. I couldn't afford to pay my babysitter. I needed more hours. They said they didn't have any available because they had a freeze on hiring."

HELD: The claimant's decision to leave her work because of her dissatisfaction with wages and hours did not constitute "good cause attributable to the employer within the meaning of the statute."

The employer did nothing to alter the terms, conditions, hours or compensation of the job plaintiff originally accepted.

Therefore, the claimant is disqualified from receiving benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 450.4
Docket/Date	Minfield v. Bernardi, 460 N.E. 2d 766 (1984)
Authority	Section 601A of the Act
Title	Time
Subtitle	Part-time or Full-time
Cross Reference	None

The claimant worked full-time for the city of Chicago and also worked part-time for Field's. On December 9, 1981, she was discharged by the city of Chicago.

The claimant had an 8 year old son, who had a speech problem and learning disability. Alone, her wages from her part-time work at Field's were insufficient to pay expenses, including the cost of a baby-sitter. On January 3, 1982, the claimant quit her job with Field's.

At her appeal hearing, she told the Referee that, although Field's had been paying her the rate agreed upon at the time of hire and did not do anything to break the contract of hire, "I needed more money. I couldn't afford to pay my baby-sitter. I needed more hours. They said they didn't have any available. They had a freeze on hiring."

HELD: Generally, dissatisfaction with the number of working hours does not constitute good cause to leave employment. An

employee who works at unsteady employment may well be dissatisfied with her job and seek another which provides more regular employment and better weekly wages. But she has an opportunity to pursue that course on the days or at the times when she is not working.

There are circumstances which might give rise to good cause for leaving - for example, if: the hours of work or reporting requirements prevent the claimant from seeking full-time work; there is an obligation to report to work regularly, without an assurance of actual work; there is a reduction in wages as well as hours; transportation time or costs, in relation to total remuneration, have become excessive. But, none of these existed in the case at bar.

The claimant's employment at Field's was dependable and in accordance with the terms, conditions, hours, and compensation she had accepted at the time of hire. It was suitable work. It was not rendered unsuitable simply because the claimant became separated from other work. The claimant was not unemployed due to the lack of suitable work, and was disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 500.4
Docket/Date	Dunn v. Director, 476 N.E. 2d 77 (1985)
Authority	Section 601A of the Act
Title	Wages
Subtitle	Increase Refused
Cross Reference	VL 135.2, Discharge or Leaving

The claimant worked for 3 years as a retail clerk and was earning $5.25 per hour. There was no evidence that this was an unsuitable wage. On a Friday, he wrote his employer a note: "Starting Monday ... I must have $7.60 per hour, or please send [me] my pink-slip." On Monday, the claimant did not report to work or notify the employer of the reasons for his absence. That evening, the employer responded: "You are considered to have self-terminated yourself from employment." The claimant asked whether his claim for unemployment benefits would be contested. The employer informed him that it would. On Tuesday, the claimant attempted to report to work but was escorted from the premises by security guards.

The claimant contended that, because his note gave the employer a choice (give him a 46% pay raise or a pink-slip), this was not a voluntary leaving.

HELD: Generally, if a worker has a choice of remaining

employed, his work separation is a voluntary leaving, but, if the employer is unwilling to allow the worker to continue working, the separation is a discharge.

In any case, in order to determine whether a party is exercising a choice, it is necessary to determine his intent. Intent is to be garnered from the totality of the evidence presented, including an examination of a party's words and actions.

In this case, the claimant contended that the employer chose to discharge him. However, the claimant's use of the term "pink-slip," which ordinarily means discharge by the employer, was not dispositive of the issue of intent. The claimant's words (the note) and his actions (an absence without notice and the fact that he would not report again if unemployment benefits were uncontested) indicated that it was his intent, and he chose, to discontinue the employment relationship.

This was a voluntary leaving. Because there was no showing that the claimant's current wage was unsuitable, the leaving was without good cause attributable to the employer.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 450.55

Docket/Date
83-BRD-12161/10-31-83

Case Number/Authority
1./S-601A

Title
Time

Subtitle
Temporary

Cross-Reference
None

The claimant was employed as a research assistant on a temporary assignment for about six weeks. The claimant left her work to go to another state to look for work. At the time she left, there remained work available for her.

HELD: Although the nature of the claimant's assignments was temporary, there nevertheless continued to be work available to the claimant at the time she quit her job. The claimant initiated her own unemployment for personal reasons not attributable to the employer and is ineligible to receive benefits.

Union Relations

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 475.05

Docket/Date
84-BRD-2902/2-29-84

Case Number/Authority
1./S-601A

Title: Union Relations

Subtitle: General

Cross-Reference: None

The claimant resigned after his union voted to accept a contract which reduced wages and benefits. The claimant felt that he should not be forced to accept changes that he did not agree with, even though they were accepted by a majority of the employees.

HELD: When a union agreement has been accepted by both the union and the employer, the terms of the agreement become a part of the employment contract. Both the union members and the employer are expected to follow the terms of their agreement.

The claimant's refusal to accept the terms of an agreement negotiated by his union was a voluntary leaving without good cause attributable to the employer, and he is disqualified for benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 475.35

Docket/Date
83-BRD-11272/10-5-83

Case Number/Authority
1./S-601A

Title: Union Relations

Subtitle: Labor Dispute, Participation In

Cross-Reference: None

The claimant quit his job rather than drive the employer's truck during a truckers' strike. The claimant was not on strike, and there was no abuse or violence or any threats of such.

HELD: The claimant was not subject to actual abuse or violence, or any threats of abuse or violence, and the conditions of work imposed by the employer had not changed for the claimant. The claimant's voluntarily leaving was not attributable to the employer and was without good cause. He is ineligible for benefits.

Voluntary Leaving
Voluntary

Voluntary

495.05 - General

Issue/Digest Code	VOLUNTARY LEAVING / VL 495.05
Docket/Date	ABR-86-9166 / 7-15-87
Authority	Section 601A of the Act
Title	Voluntary
Subtitle	Early Retirement
Cross Reference	VL 50.05, Attributable; VL 210.05, Good Cause

The employer's witness testified that the employer intended to reduce its work force. This was to be accomplished in 2 parts: the first part was an early retirement program; the second part was conditional upon the success of the first part - that is, if not enough workers took advantage of the retirement program, there would have to be layoffs.

The claimant, an Assistant Mine Manager, had heard a rumor that his position was to be eliminated. Then he was offered the early retirement package, which included financial incentives. Fearing that, if he did not accept the package, he would be demoted, which would have resulted in a financial loss, the claimant accepted the early retirement package.

HELD: The Unemployment Insurance Act provides that benefits shall be paid to individuals who are out of work due to the lack of suitable work and through no fault of their own. Accordingly, there can be no separation disqualification when a worker has been laid off, since no action taken by the worker, but, rather,

a unilateral action by the employer, has caused the work separation.

In this case, the employer decided the number of positions it wanted eliminated. Had the requisite number of workers not resigned, the employer would have laid off the number necessary to meet its goal. The same number of people would have been unemployed, whether they quit or were laid off. This work separation, therefore, had the same effect as a lay off.

Further, the employer, on one hand, offered financial incentives to those workers who left; on the other hand, the employer did not interpose any safeguards or job protection for those who did not resign - those who stayed, even if they were not laid off, faced the prospect of loss of wages through demotions. It was clear then that the employer was the moving party, desirous of having workers accept an early retirement package; and those who, like the claimant, did the employer's bidding, acted as reasonable persons would have under the same or similar circumstances.

The claimant became involuntarily unemployed due to economic conditions beyond his control. This was a leaving with good cause attributable to the employer.

Wages

Issue/Digest Code	VOLUNTARY LEAVING / VL 500.752
Docket/Date	Irene Collier v. IDES, No. 86-1397 (1987)
Authority	Section 601A of the Act
Title	Wages
Subtitle	Reduction - Change in Hours
Cross Reference	None

The claimant worked as an assembler. For 2 years she worked an 8-hour shift, 5 days per week, at an hourly rate of $3.95. Because of a business slowdown, the company reduced her workload to 30 hours, 5 mornings per week. The claimant quit.

The claimant stated that she quit when she did because continuing to work mornings would prevent her from seeking full-time work during the time of day when, she believed, most companies did their hiring. She also cited her financial situation, particularly private school tuition for her children.

The Board of Review held that, in the absence of a binding promise to furnish full-time work, the reduction in hours did not so materially vary conditions of work as to render the work unsuitable. The Board of Review issued a decision disqualifying the claimant.

The circuit court determined that the 25% reduction in the

claimant's hours was a unilateral and substantial change in her condition of employment which translated into a 25% reduction in pay and that she was entitled to unemployment benefits.

HELD: Dissatisfaction with the number of working hours does not constitute good cause for leaving employment. Generally, if there is no change in the rate of pay, there is no good cause for leaving. Insofar as reduced hours also diminish salary and may be considered a reduction in pay, good cause is dependent upon all attendant circumstances; for example: was there a contractual agreement to furnish 40 hours' work/pay; or, did the hours of employment preclude seeking other work?

In this case, there was no agreement to furnish a 40-hour work week. The claimant's contention that she could not explore work opportunities in the afternoon was her belief, not supported by any evidence. The claimant's personal financial circumstances were not attributable to the employer, nor did they constitute good cause, because the claimant could have continued to draw wages while seeking other work, or, if she was earning less than her weekly benefit amount, while collecting unemployment benefits. The claimant was disqualified for Voluntary Leaving under Section 601A.

Issue/Digest Code	VOLUNTARY LEAVING / VL 500.1
Docket/Date	ABR-86-5060 / 3-30-87
Authority	Section 601A of the Act
Title	Wages
Subtitle	Agreement Concerning (and Early Retirement)
Cross Reference	VL 345.05, Pension - Retirement; VL 450.25, Lay-off

The claimant had been employed, as a Tool Maker, for 18 years. The employer was contemplating a reduction in work force, and, toward that end, told the claimant that if he were to retire on or before April 18, 1986, he would be entitled to his retirement pension, which included a medical package which included his sick wife. He was also told that if he were to retire after April 18, 1986, he would not be granted the medical package and benefits which included his sick wife. On April 18, 1986, the claimant applied for early retirement, so that his sick wife would be covered by his medical benefits.

HELD: Some employers have adopted special early retirement programs for the purpose of encouraging older workers to retire early and gain certain advantages, such as bonuses or increased benefits. In those cases, whether a worker leaves with good cause attributable to the employer is determined by examining, where applicable, the following factors: the period of time between early retirement and mandatory retirement; the degree of encouragement by supervisory personnel to retire early; whether

the inducement to retire is financially substantial; in short, the question to be asked is whether a reasonably prudent person, under the same or similar circumstances, would accept early retirement.

Notwithstanding the above, care must be taken to distinguish cases such as the instant one. In the instant case, the employer did not offer the claimant a package containing any advantages; rather, the employer sought to discontinue existing medical coverage. The claimant was confronted by an imminent and material breach of the continued working agreement. His apprehension was reasonable, in that this would impose a financial burden upon him; he had a compelling reason for leaving - a reasonable person would not have waited to suffer the actual detriment. The work had been rendered unsuitable, and the claimant left work with good cause attributable to his employer, without disqualification under Section 601A.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 500.3

Docket/Date
83-BRD-9444/8-16-83

Case Number/Authority
1./S-601A

Title Wages

Subtitle Failure Or Refusal To Pay

Cross-Reference None

The claimant left work voluntarily because the employer's checks used to pay her wages were being continually returned as a result of insufficient funds in the employer's account. The currency exchange at which she cashed the checks refused further transactions involving these checks. The claimant complained to the employer about the returned wage checks, but the situation did not improve.

HELD: After making a reasonable attempt to correct the situation without success, the claimant left work voluntarily because checks given by the employer, representing her wages, were constantly being returned as a result of insufficient funds in the employer's account. Payment of wages is within the control of the employer and therefore attributable to it.

The prompt payment of wages for work performed is a material factor in a worker's condition of hire, and the employer's continued failure to pay the claimant her wages in a timely manner is a compelling circumstance rendering the work unsuitable for the claimant. The claimant left work voluntarily with good cause and is eligible for benefits.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 500.752

Docket/Date
83-BRD-12658/11-9-83

Case Number/Authority
1./S-601A

Title: Wages

Subtitle: Reduction - Hours, Changes In

Cross-Reference: None

The record discloses that the claimant last worked as a construction laborer. The claimant left this job to relocate and to search for other work out-of-state because the number of hours he was scheduled to work had been reduced, and he felt he was not earning sufficient wages to support his family.

HELD: The claimant quit his job because he was working fewer hours. However, he could have used the extra time to search for and obtain other work, and, if his wages were less than his weekly benefit amount, he could have filed a claim for benefits. Therefore, the reduction in work hours did not constitute good cause for leaving work, and the claimant is disqualified for benefits.

Work, Definition Of

505.05 - General

Work, Nature Of

Working Conditions

Issue/Digest Code	VOLUNTARY LEAVING / VL 515.35
Docket/Date	ABR-88-2843 / 5-31-88
Authority	Section 601A of the Act
Title	Working Conditions
Subtitle	Environment
Cross Reference	None

The claimant had an allergy to cigarette smoke. An assistant manager kept blowing smoke in her direction in the office. Despite her complaints, the situation persisted, until, finally, she quit.

HELD: If an individual leaves work because of a physical condition surrounding the work, she must show that the physical condition was attributable to the employer and that it resulted in undue hardship for her.

In this case, the smoke in the office was attributable to the employer because the claimant brought it to the employer's attention and no accommodation was made. The claimant had good cause for leaving because she had a medical condition that was adversely affected by the smoke.

The claimant left work with good cause attributable to her employer.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.4

Docket/Date
83-BRD-14394/12-2-83

Case Number/Authority
1./S-601A

Title: Working Conditions

Subtitle: Fellow Employee

Cross-Reference: None

The claimant quit her job as a cook because she disliked a co-worker and felt job duties were not evenly distributed. She became upset when she learned the co-worker would continue working for the employer the next school year.

HELD: The dislike for a fellow employee does not, in itself, establish a good cause for leaving a job. There is no evidence that the claimant was subject to such conditions or abuse as would have rendered the job unsuitable for her. As such, the claimant's reason for leaving work was purely personal and not attributable to the employer. She is, therefore, ineligible to receive benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 515.4
Docket/Date	Alfonso Barron v. Ward, No. 86-1630 (1987)
Authority	Section 601A of the Act
Title	Working Conditions
Subtitle	Fellow Employee
Cross Reference	VL 160.05, Efforts to Secure Employment

The claimant, who was Mexican, worked with an employee who made repeated derogatory remarks about Mexicans in general and the claimant in particular. Finally, the claimant and the co-worker were engaged in an altercation, during which the co-worker struck the claimant in the face, injuring him

The co-worker was transferred to another department. After the transfer, the co-worker threatened to kill the claimant and would laugh at him whenever he would see him in the plant.

For business reasons, the employer decided to transfer the co-worker back to the claimant's department. When the claimant learned of this, he told superiors and the union steward he could not and would not work with the co-worker, but they insisted that the transfer was a business necessity and that the claimant should just stay on and work.

The claimant quit.

HELD: An employee is not justified in quitting his job because of a minor, isolated confrontation with a fellow employee. This is particularly true if the abused employee does not have reason to believe that further abuse will result if he stays on the job. An aggrieved employee has a duty to cooperate in some common-sense action to eliminate the problem.

But the general rule indicated above would not apply if an employee were seriously injured, had a genuine fear of assault if he returned to work, had good reason to believe that attempts to work out the problem would be futile, or attempts to stop the abuse had failed.

In this case, the claimant had a genuine fear of further abuse and assault, and good reason to believe that attempts to work out the problem would be futile. He left work with good cause attributable to the employer.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.5

Docket/Date
83-BRD-10841/9-23-83

Case Number/Authority
1./S-601B4.

Title Working Conditions

Subtitle Morals

Cross-Reference None

The claimant worked for four months as a housekeeper for a motel managed by a husband and wife.

On one occasion, the manager came into the motel room where the claimant was bent over cleaning and slapped her on her posterior. On another occasion he came into the room where she was working and, after some small talk, put his arms around her and asked her for a kiss. The claimant refused. She reported the incident to her head maid and finished her work shift, but she did not report to work again. The next morning, the manager telephoned the claimant at home, apologized for the incident the day before, and told her that he would not do it again. The employer did not rebut the claimant's testimony.

HELD: The claimant left her job immediately after her supervisor placed his arms around her and asked for a kiss. Both this incident and the prior incident were unsolicited by the claimant. The claimant complained to the head maid. For the claimant to complain to the manager would have been a useless act. The employer offered no evidence to contradict the claimant's testimony. The owner is responsible for the activities of the manager which, in this instance, amounted to sexual harassment. The claimant voluntarily left work for good cause attributable to the employer, and she is not disqualified from the receipt of benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 515.5
Docket/Date	ABR-87-1354 / 4-14-87
Authority	Section 601A of the Act
Title	Working Conditions
Subtitle	Morals
Cross Reference	VL 90.05, Conscien. Obj.; VL 385.05, Cause of Leaving

The claimant worked as a Supervisor in a medical center's kitchen. His schedule was such that he was able to attend either a Jehovah's Witness church meeting on Tuesday evening or a ministers' training session on Thursday evening.

Then the employer decided to institute a new 1 a.m. to 3 a.m. shift. The employer asked the claimant to supervise this shift, in addition to his regular shift. These additional responsibilities would have lasted 1 month. The claimant refused to work the additional hours.

In order to begin operations on its new shift, and as a result of the claimant's refusal, the employer was compelled to rearrange other supervisors' schedules. This, in turn, impacted upon the claimant. The claimant was told that his work schedule would have to be changed, temporarily, regardless. He was offered a variety of schedules, before he accepted a part-time position as a relief cook.

The relief cook job had 2 weeks left to run - after which the claimant would be returned to his regular supervisory position and shift - when the claimant observed that he would be scheduled to work both Tuesday and Thursday evenings. He promptly gave the employer 2-weeks' notice of his intention to resign.

The claimant stated that he quit because he wished to attend either the Tuesday or the Thursday church meeting - or, preferably, both. He acknowledged that he was not required by the church to attend such meetings, but that it was his personal decision to do so.

HELD: Unemployment insurance is designed to guarantee benefits to employees who are out of work through no fault of their own. The determination of fault is to be made in light of the First Amendment freedom of religion provision - and not solely on the basis of the language of a statute defining eligibility. Accordingly, if there is a true religious conviction present, benefits cannot be withheld.

In this case, the claimant was not compelled to leave work on account of a true religious conviction. His attendance at church meetings was, by his admission and by his prior attendance at only 1 of 2 meetings per week, non-obligatory. He had refused temporary work which would not have conflicted with his desire to

attend 1 meeting per week. Finally, at the time he quit, the reason for his quit no longer existed - when his 2-week notice of quit expired, so did his temporary assignment.

Neither the employer nor the state conditioned the claimant's receipt of benefits upon conduct proscribed by his faith. There was no burden upon religion. The claimant was disqualified for benefits under Section 601A.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.6

Docket/Date
83-BRD-12533/11-7-83

Case Number/Authority
1./S-601A

Title Working Conditions

Subtitle Production Requirement Or Quantity Of Duties

Cross-Reference None

The claimant was counseled about her work performance on two occasions. The employer told the claimant that her production was at the 60% level and tried to encourage the claimant to raise it to 100%. The employer offered to give the claimant assistance to increase her performance, but this was not accepted. At the second meeting, after the employer again explained that the claimant's performance had not improved, the claimant decided to leave her job and quit work; she didn't believe she could do any better.

HELD: The claimant left her job voluntarily without good cause attributable to the employer. An employer has a right to set a production goal for its employees and to try to help the employees achieve that goal. The claimant's quitting after being encouraged to produce more work does not constitute good cause for leaving work, and she is disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 515.65
Docket/Date	Patrick Burke v. Board of Review, 477 N.E. 2d 1351
Authority	Section 601A of the Act
Title	Working Conditions
Subtitle	Safety
Cross Reference	VL 235.45, Health, Risk of Illness or Injury

The claimant, a worker in a nuclear facility, testified that 2 fellow employees had been found to be contaminated with radiation. The extent of their contamination, he testified, was that, upon leaving the facility, they had to take showers and some work clothing was lost. The claimant himself was found not to be contaminated. Nonetheless, believing that there were areas of radiation still unknown, making working conditions unduly hazardous for him, the claimant quit. At no time had he sought medical treatment or advice, nor had he complained to superiors about the purportedly hazardous conditions. He stated that he did not complain because he did not wish to be branded a troublemaker.

HELD: In order to demonstrate that health is a compelling reason for terminating employment, a claimant must:

(1) offer competent testimony (some medical evidence) that adequate health reasons existed to justify termination at the time of termination;
(2) have informed the employer of the health problem, and
(3) be available, where a reasonable accommodation is made by the employer, for work which is not inimical to his health

The failure to satisfy any one of the three conditions explicated above will bar a claim for unemployment compensation.

In the case at bar, the claimant did not establish good cause attributable to his employer based upon health reasons. He did not adduce any medical evidence to support the allegations concerning alleged health problems. He did not report purportedly unsafe conditions to his employer. His conduct did not meet the standard of ordinary common sense; in short, he did not act in good faith. As a result, he was disqualified for benefits.

Issue/Digest Code	VOLUNTARY LEAVING / VL 515.65
Docket/Date	ABR-87-5552 / 4-7-88
Authority	Section 601A of the Act
Title	Working Conditions
Subtitle	Safety
Cross Reference	VL 50.05, Attributable; VL 235.45 Health

The claimant worked in a hospital as a Registered Pediatric Nurse whose duties included providing nursing care to children with various diseases - including Acquired Immune Deficiency Syndrome [AIDS].

The hospital informed nurses as to how AIDS could be transmitted. The hospital formally instructed nurses concerning the treatment of AIDS patients. On the doors of patients who had been exposed to the AIDS virus were notices reminding nurses about blood and secretion precautions to be taken. In addition, the hospital followed established procedures that were taken for other infectious diseases transmitted through the blood, such as hepatitis, which involved precautions against contact with patients' blood and secretions.

The claimant became separated from employment because she refused to provide care for an infant who had been exposed to the AIDS virus.

HELD: Dangers inherent in a job are not necessarily attributable to the employer. Only where the risks of a job are disproportionately high, because the employer either acts or fails to act, will such a risk result in a finding of attributability.

Nursing, as an occupation, involves contact with patients who might have contracted contagious diseases. The claimant, as a nurse, assumed this risk as the ordinary risk of the nursing occupation. The evidence in this matter did not establish that the risk of the claimant's contraction of the AIDS virus was disproportionately high. This was because of the precautions taken by the employer.

The claimant did not make herself available for work despite the employer's reasonable precautions. As such, she did not have good cause attributable to the employer for leaving her job.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.8

Docket/Date
83-BRD-11730/10-20-83

Case Number/Authority
1./S-601A

Title Working Conditions

Subtitle Supervisor

Cross-Reference None

The claimant quit because her supervisor made "unreasonable demands and wouldn't let anyone have an opinion without clearing with her first." She quit without notice to the employer.

At the hearing before the referee, the claimant testified that she considered it an insult when her supervisor told her that she "didn't like the way the project was done and that she couldn't afford to spoon-feed me." The employer's sales manager testified that the claimant had never discussed any problem with him.

HELD: An individual's dislike or disapproval of his supervisor or her employer's method of doing business is not, in and of itself, good cause for leaving work, unless the evidence shows discrimination, abuse, or violence. There is no evidence that the claimant was subjected to any of these conditions which would have rendered the work unsuitable for her. She voluntarily quit without good cause, and she is disqualified for benefits.

ILLINOIS
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.8

Docket/Date
84-BRD-413/1-12-84

Case Number/Authority
2./S-601A

Title Working Conditions

Subtitle Supervisor

Cross-Reference None

In the presence of co-workers, the claimant's supervisor constantly yelled at him, cursed him, called him a dummy, and told him he was stupid. The claimant complained to the management, and relations with the supervisor improved. Eventually, however, the supervisor reverted to the same practices, and, on the date the claimant quit, the supervisor yelled at him in the presence of another supervisor.

HELD: The repeated attacks of verbal abuse by the supervisor were good cause for the claimant's leaving. Since he had made reasonable and unsuccessful efforts to remedy the situation by reporting the matter to the employer, the circumstances were within the employer's knowledge and control. It is concluded that the claimant quit for good cause attributable to the employer, and he is not disqualified from receiving benefits.

ILLINOIS
DEPARTMENT OF
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DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.8

Docket/Date
84-BRD-499/1-13-84

Case Number/Authority
3./S-601A

Title
Working Conditions

Subtitle
Supervisor

Cross-Reference
None

The claimant alleged that for a period of six months she was subjected to harassment by her supervisor. She cited instances in which her supervisor had criticized her for issuing an excessive number of credit slips and had then questioned her as to the reasons for issuing the slips. She also told of another instance in which the supervisor had called her attention to a shortage in the cash receipts. She felt that her honesty had been questioned and that the supervisor had not given her an opportunity to explain the circumstances. She resigned her position after one of these incidents.

HELD: The evidence established that the claimant became sensitive to certain characteristics of her supervisor. Dislike or friction between a supervisor and a worker is not in itself good cause for leaving which is attributable to the employer. There must be additional evidence that the supervisor's conduct amounted to unreasonable discrimination, abuse or hostility. In the instant case, the supervisor's conduct in questioning the claimant was within the scope of her duties. Therefore, the claimant voluntarily left work without good cause attributable to the employer. She is disqualified from receiving benefits.

ILLINOIS
DEPARTMENT OF
EMPLOYMENT SECURITY

DIGEST OF ADJUDICATION PRECEDENTS

Issue/Digest Code
VOLUNTARY LEAVING/VL 515.9

Docket/Date
83-BRD-14848/12-13-83

Case Number/Authority
1./S-601A

Title Working Conditions

Subtitle Transfer To Other Work

Cross-Reference None

The claimant worked for approximately three years until she quit her job. She had been promoted on two previous occasions during her employment. Her most recent position was that of an Administrative Clerk. The employer notified her that she was being transferred to a Billing Clerk position at the same rate of pay. The employer was confident that she would be able to learn the new position. The claimant reviewed the job description of the Billing Clerk position, believed that she was not qualified to fill it, and notified the employer that she would not accept the job reassignment.

HELD: The claimant was to be transferred from her position as an Administrative Clerk to that of a Billing Clerk, with no reduction in her salary. While the employer expressed confidence in her abiltiy to perform her new duties, the claimant decided that she was unqualified for the position and left work. Although the claimant's leaving work was attributable to the employer in that it unilaterally changed the claimant's work assignment, the claimant left without good cause. Other than her subjective conclusion that she could not perform her new duties, the claimant did not make any effort to attempt the new job before leaving work and therefore could not show that the work was in fact unsuitable. The claimant is ineligible to receive benefits.